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MACKENZIE VALLEY PIPELINE INQUIRY

IN THE MATTER OF THE APPLICATIONS BY EACH OF

(a) CANADIAN ARCTIC GAS PIPELINE LIMITED FOR A
RIGHT-OF-WAY THAT MIGHT BE GRANTED ACROSS
CROWN LANDS WITHIN THE YUKON TERRITORY AND
THE NORTHWEST TERRITORIES, and

(b) FOOTHILLS PIPE LINES LTD. FOR A RIGHT-OF-WAY
THAT MIGHT BE GRANTED ACROSS CROWN LANDS
WITHIN THE NORTHWEST TERRITORIES

FOR THE PURPOSE OF A PROPOSED MACKENZIE VALLEY PIPELINE

and

IN THE MATTER OF THE SOCIAL, ENVIRONMENTAL AND
ECONOMIC IMPACT REGIONALLY OF THE CONSTRUCTION,
OPERATION AND SUBSEQUENT ABANDONMENT OF THE ABOVE
PROPOSED PIPELINE

(Before the Honourable Mr. Justice Berger, Commissioner)

Yellowknife, N.W.T.

November 17, 1976.

PROCEEDINGS AT INQUIRY

Volume 202

CANADIAN ARCTIC
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APPEARANCES:

- Mr. Ian G. Scott, Q.C.,
Mr. Stephen T. Goudge,
Mr. Alick Ryder, and
Mr. Ian Roland, for Mackenzie Valley Pipeline Inquiry;
- Mr. Pierre Genest, Q.C.,
Mr. Jack Marshall,
Mr. Darryl Carter,
Mr. J.T. Steeves, and for Canadian Arctic Gas Pipeline Limited;
Mr. Gerry Ziskrout,
- Mr. Reginald Gibbs, Q.C.,
Mr. Alan Hollingworth,
Mr. John W. Lutes, and for Foothills Pipe Lines Ltd.;
Mr. Ian MacLachlan,
Mr. Russell Anthony,
Prof. Alastair Lucas and
Mr. Garth Evans, for Canadian Arctic Resources Committee;
- Mr. Glen W. Bell and
Mr. Gerry Sutton, for Northwest Territories Indian Brotherhood,
- Mr. John Bayly and
Miss Lesley Lane, for Inuit Tapirisat of Canada, and The Committee for Original Peoples Entitlement;
- Mr. Ron Veale and
Mr. Allen Lueck, for The Council for the Yukon Indians;
- Mr. Carson Templeton, for Environment Protection Board;
- Mr. David H. Searle, Q.C.,
for Northwest Territories Chamber of Commerce;
- Mr. Murray Sigler and
Mr. David Reesor, for The Association of Municipalities;
- Mr. John Ballem, Q.C., for Producer Companies (Imperial, Shell & Gulf);
- Mrs. Joanne MacQuarrie, for Mental Health Association of the Northwest Territories.

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CHAPTER I

THE FIRST PART OF THE
HISTORY OF THE
COUNTRY OF NEW
ENGLAND

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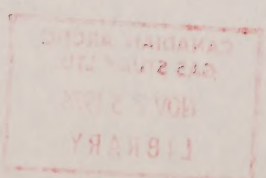
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1 Yellowknife, N.W.T.

2 November 17, 1976.

3 (PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

4 MR. SCOTT: Mr. Commissioner,
5 before Mr. Bayly begins, I wonder if I could just make
6 not by way of reply but simply by way of observation
7 a comment on something that Mr. Templeton said yester-
8 day. At page 31852 he said -- and I'm quoting:

9 "I'm somewhat disquieted that so many government
10 department recommendations suddenly appeared in
11 the Commission counsel's final argument rather
12 than earlier. "

13 I think it important to point out that the Inquiry
14 Appraisal Team is, of course, made up of persons who
15 are seconded by government and persons who are hired
16 from the public sector. It goes without saying, and
17 I don't think that Mr Templeton misunderstands this,
18 it goes without saying that none of the recommendations
19 or submissions which we have made to you were developed
20 in any government department, nor were any of them
21 reviewed, examined, or reported upon to government
22 departments, and indeed government departments insofar
23 as we know got access to them at the same early date
24 the participants in this Inquiry did.

25 It's significant, I think, to
26 point out that the three areas that Mr. Templeton
27 zeroed in on presumably in respect of that comment,
28 fisheries, sewage and frost heave, were incidentally
29 three areas in which the substantial drafts of our
30 submission were made not by government employees or

1 representatives of government departments but by
2 persons hired from the private sector and retained on
3 our staff for that purpose.

4 So we deny first of all the
5 general charge and we say that the particular examples
6 can be illustrated to be not true.

7 Mr. Bayly?

8 THE COMMISSIONER: It was a
9 most serious allegation.

10 MR. BAYLY: Mr. Commissioner,
11 I've distributed to all participants and to members of
12 the press copies of most of what I have to say today,
13 and I have also filed with Miss Hutchinson a copy of
14 the argument without recommendations that we distribu-
15 ted to all parties on the 5th of November of this year.
16 I have for filing before the end of the day a copy of
17 the argument with references for every section and
18 it hasn't been through the xerox machine yet, but
19 it will be available before the end of the day.

20 (SUBMISSION BY MR. BAYLY FOR COPE MARKED
21 EXHIBIT 896)

22 MR. BAYLY: Sir, the argumen t,
23 the terms and conditions and the recommendations
24 proposed by COPE to this Inquiry were prepared under
25 my direction. They were developed from the house to
26 house visits in the communities which were made by
27 COPE field workers. The major concerns of the
28 Inuvialuit were extracted from the notes which were
29 made following these visits. These concerns were dis-
30 cussed and approved by the COPE Board of Directors at

1 / a meeting in
2 Sachs Harbour in August, 1975. The evidence that we
3 led during the formal hearings was a reflection of these
4 concerns. Using this evidence and the evidence which
5 you heard in the community hearings, we developed the
6 argument and recommendations which are before you.
7 On the 22nd of October this argument was taken to
8 the COPE Board of Directors in Holman Island where it
9 was read, translated, debated, modified, and accepted.

10 I've referred to the three
11 documents which will form the argument to be presented
12 to you.

13 Mr. Commissioner, we begin
14 with the statement that there should be no pipeline
15 before land claims are settled. That is the position
16 that was put to you on behalf of COPE at the prelimin-
17 ary hearings in Inuvik, and that is the position of
18 COPE and of the Inuit Tapirisat of Canada, today after
19 19 months of evidence before you. People in every
20 native community have said that land claims must be
21 settled before the construction of any pipeline, and
22 they have stated their reasons for this demand. They
23 have expressed a widespread and deeply felt apprehension
24 about the impact and implications of a pipeline and of
25 other related developments. They fear for their land,
26 their communities, their families and their way of life.

27 What do the Inuvialuit want
28 from this Commission and what do they hope to find in
29 your report to the Government of Canada? The best that
30 they can hope for is a recommendation that there be no
pipeline authorization or construction prior to the

1 settlement and implementation of their land claims;
2 no pipeline before whatever changes are necessary to
3 ensure their survival as a people have taken place;
4 no pipeline before land selection and planning have
5 occurred.

6 The Inuvialuit seek this
7 recommendation for two broad reasons.

8 (1) Evidence led at this Inquiry has shown that the
9 social, economic and mental stresses and costs which
10 will result from forced change of native people and
11 their way of life are unacceptable.

12 (2) The Inuvialuit have legal rights to their land,
13 and evidence has been led in the communities to show
14 the extent and nature of the uses to which the land
15 has been put. These rights should for legal, moral
16 and political reasons be determined, acknowledged and
17 enshrined prior to construction. Because land selec-
18 tion is an important element of settlement, the evi-
19 dence has shown that it would be impossible to build a
20 pipeline or even to select a route for one without
21 precluding the selection of certain lands and waters
22 under the terms of a land claims settlement agreement.

1 Neither COPE nor ITC has presented
2 a land claims proposal to this Inquiry. At this time,
3 there is none before the Government of Canada to present
4 to you. As you pointed out on the last day of the
5 evidence this is understandable and I make no apologies
6 to you for it.

7 Nevertheless, it is possible to
8 discuss the conflict between major development and the
9 land claims in the absence of a specific proposal. The
10 fundamental objectives of the land claims settlement
11 are not in question among the Inuvialuit. Only the means
12 to achieve these objectives are under review. To
13 demonstrate prejudice, we intend to examine the
14 following:

- 15 1) the right of aboriginal peoples to land and water;
- 16 2) the basic things people want to protect and to have
17 guaranteed, and;
- 18 3) the extent to which claims native people might put
19 forward would be compromised by a pipeline and the
20 activities, structures and increased population
21 which would accompany its construction into the
22 area.

23 COPE viewed this Inquiry as a
24 unique opportunity from the outset. In my opening
25 statement to you on March 3, 1975, I said that should
26 a pipeline ever be built COPE wanted to be there, pen
27 in hand, to write terms and conditions. And in the
28 words of Vincent Steen, "I'm back again."

29 COPE has tried to use this
30 opportunity to every advantage with the assistance of

1 the funds arranged by you, to which COPE is grateful.
2 In the intervening two years it has become apparent
3 that your Inquiry has indeed been unique. There is
4 no assurance unfortunately that native people will as
5 a matter of course even be given the opportunity again
6 to contribute their knowledge and solutions to a
7 development proposal of this magnitude.

8 COPE, therefore, seeks to make
9 recommendations with as broad applicability as possible.
10 Terms and conditions which should apply to a pipeline
11 built on native lands are, in essence, no different
12 from those which should apply to any development on
13 those lands, regardless of place and time.

14 Although Inuvialuit have said,
15 "no pipeline before a land claim settlement", they see
16 no reason not to express their views now about the
17 terms and conditions which ought to apply to one, should
18 it ever be built. I will argue that the opportunity
19 this Inquiry has provided to native people should be
20 continuous and expanded, but I am also aware that they
21 may not have such a favorable opportunity again. I
22 therefore intend to set before you these terms and
23 conditions as COPE sees them now, based on what evidence
24 you have before you.

25 Let me be clear about the spirit
26 in which COPE makes its recommendations. The Inuvialuit
27 are not asking you to ask the government to plan things,
28 administer and regulate them on their behalf. I believe
29 there is no evidence before this Inquiry to suggest that
30 they can safely leave the task of defending their interest

1 to the government, either Federal or Territorial. That
2 task is one they seek for themselves, through land
3 claims and through the terms and conditions you will
4 recommend. COPE's recommendations are put forward on the
5 assumption that native people will have that power and
6 control over their land and their lives.

7 COPE's recommendations serve
8 notice of its basic concerns and objectives to all
9 interested parties and of the policies it might pursue
10 in negotiations as equals with those other parties.

11 It is often asked, "What do the
12 native people want?". You've heard many people speak
13 at the community hearings. Almost all expressed their
14 concern about the impact of development, past and
15 projected, on their land and on their society. They
16 expressed their fear of loss, loss of their land, their
17 culture, their traditions, society and their identity.
18 They expressed their desire to protect these things
19 in the future. The evidence in the communities indicates
20 that all these things are being talked about when the
21 phrase land claims is used. People have given evidence
22 based on their experience of the damage that industrial
23 activities have in the past done to their land. They
24 have given evidence of the changes of their way of life
25 that have been imposed even with the best of intentions
26 upon their communities, their use of their own language,
27 their religion, their physical and mental health, their
28 housing and their livelihood.

29 In their view, the development of
30 petroleum resources in their land will bring with it more

1 of these changes, an acceleration of the processes and,
2 in the absence of a land claims settlement, no increase
3 in the amount of control they will have in what goes
4 on around them and what happens to them.

5 Native people in the communities
6 did not give you a detailed blueprint of what the
7 future should be, and nor can COPE do that on their
8 behalf. Perhaps no society can give you such a blue-
9 print; certainly not native society which has never
10 yet been given the opportunity to draft one.

11 What we can say is that there
12 are certain things so important to native society, so
13 dear to native people that these must be a part of
14 whatever the future brings. They want to participate
15 in Canada society, but first and foremost as Inuvialuit.
16 They are not the same as other Canadians. They do not
17 want to be, and they feel they cannot be. Above all
18 they want to survive as a people and maintain their
19 identity as Inuvialuit.

20 This does not mean that native
21 people are against change. It does mean they must
22 control their land, their communities, their lives and
23 their institutions. This is their desire and they
24 believe it's their right.

25 The survival of the Inuvialuit is
26 no longer in their own hands as it once was. The
27 southern economy and society is no longer distant and
28 unknown. It penetrates their communities and spreads
29 across their land. If the present course of development
30 continues, they are doomed people. They will be land-

1 less and outnumbered. They will have neither an
2 economic base, nor political control. They will lose
3 control over their own communities and they will forever
4 lose the opportunity to control the education of their
5 children, and the kinds of social, health and
6 recreational services and opportunities that are
7 provided in the North.

8 The survival of the Inuvialuit
9 now depends on establishing a new relationship with
10 the rest of Canadian society. If the viability and
11 integrity of their land and lives are to be assured,
12 then at least the following five requirements must
13 be met:

- 14 1) Maintenance of the traditional land base and the
15 viability of the traditional economy.
- 16 2) Maintenance of a political majority at the regional
17 level.
- 18 3) Control over major economic development planning
19 and decisions.
- 20 4) Maintenance of the viability of the small,
21 essentially native communities.
- 22 5) Adequate financial support for native self-
23 government and enterprise, including control of the
24 training and education of people for these
25 purposes.

26 Now, given these criteria, these
27 minimum conditions for the future well-being of
28 Inuvialuit, it follows that COPE must judge the impact
29 and desirability of a pipeline or any similar develop-
30 ment on the basis of whether it aids or obstructs their

1 They simply believe that a land
2 claims settlement is a major and essential step forward as
3 well as a necessary assertion of their heritage.
4 Without it nothing else will make much difference.
5 That is why I say that if your terms and conditions
6 are to offer any real benefits to native people,
7 they must go hand in hand with a land claims
8 settlement.

9 The opportunity provided by
10 your Inquiry is of itself inadequate to protect their
11 interests in the long run. We cannot ignore the con-
12 text in which these applications come before you. They
13 are not isolated. No one denies that the construction
14 of the gas pipeline opens the door to other major
15 developments. Sound terms and conditions for a
16 pipeline will not help native people if they have
17 little or no effective input into the terms and condi-
18 tions for construction of oil pipelines, offshore faci-
19 lities, roads, railroads and new communities in later
20 years. Neither can we ignore the past failures of
21 government to protect the interests of native people
22 in the face of these developments. It is for them
23 simply now or never.

24 The evidence of the appli-
25 cants must lead you to believe that they intend
26 the impact to be as gentle as possible. They are
27 prepared to reward with high wages and job opportuni-
28 ties the local people, and in particular the native
29 people. But they say that they do not have the power
30 or authority to control the five essential requirements
for Inuvialuit survival. Yet the applicants have

1 chosen not to do what the American oil companies did
2 in the United States, to influence the American Govern-
3 ment to settle the Alaskan native claims prior to the
4 commencement of work on the Alyeska Pipeline. Instead
5 in this regard Arctic Gas and Foothills and perhaps
6 if we examine Foothills' statement yesterday, their
7 position has changed, but up until yesterday both
8 companies had in public washed their hands of the
9 fate of native claims and the Inuvialuit therefore
10 place great importance on the role of this Commission,
11 its role in recommending that the claims be settled
12 and in place prior to the granting of any certificates
13 of public convenience to either applicant.

14 The Inuvialuit understand
15 a land claims settlement to mean the return of
16 effective power and control over their traditional
17 lands. Without that, they see no way of having any
18 substantial influence over major developments. To
19 construct a pipeline on their lands prior to a land
20 claims settlement is therefore clearly prejudicial
21 to the validity of the claim itself, to the effective-
22 ness of their settlement, and to their future well-
23 being.

24 In the following argument we
25 will point out the problems we foresee with development
26 and make a number of specific recommendations about
27 them. Our emphasis is on the basic objectives of
28 native people and our estimate of the minimum conditions
29 under which these can be realized. A pipeline or
30 similar development must be consistent with these.

We do not pretend to have the answers for everything. In some areas we can only say that there is a problem and that we have heard no sound solutions put forward in evidence. Where that is the case, and the consequences are unacceptable to native people, we can say only that acceptable solutions must be found prior to construction, and that native people must participate in determining these solutions.

Our specific recommendations are neither final nor exhaustive. We cannot foresee every problem and we know that even at this late stage of assessment of the applicant's proposals the actual development may be very different from what we are considering now. COPE says Inuvialuit must have the continuing power and control to negotiate issues as they arise, whether they relate to environmental protection, employment, education, or to enforce the implementation of the various solutions. This power must not be restricted to COPE or to a few native representatives on Boards or authorities. It must ultimately go back to the communities, to the hunters and trappers association and to the people themselves. Our recommendations merely indicate the concerns and solutions which native people might put forward in continuing negotiations.

COPE cannot let the Inuvialuit's participations in the future rest with a list of recommendations, recommended terms and conditions. For unless both government and industry whole-heartedly support the spirit as well as the

letter of these terms and conditions, then anything with uncertain implications may be adversely interpreted. As well, the concern about new and unforeseen situations may be met with the customary cold shoulder. There is no credible evidence before this Inquiry that either government or industry would not interpret unforeseen or ambiguous situations in their own favor, or indeed actively shift the balance to their own advantage.

I propose to discuss briefly the legal claim, that is the right of Inuvialuit to lands and waters. The Mackenzie Valley Pipeline Inquiry is not the proper forum to settle and determine the nature and extent of the land claims of the Inuvialuit in the Western Arctic, but to the extent that the construction of a pipeline and related facilities is in conflict with Inuvialuit interests and claims, it is important that you be able to pass on in your report to the Government of Canada the nature and extent of that prejudice.

Evidence has been heard in all the Inuvialuit communities of present and past land use. This evidence has confirmed the contents of the land use and occupancy study in the Western Arctic, which is now an exhibit to this Inquiry, prepared by members of the community with the assistance of Peter Usher, and the uses have been graphically shown on the supporting map series which is an exhibit to these proceedings. Some of the maps are on the wall today.

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1 just like you white people working for wages
2 and you have money in the bank, well my bank
3 was here all around with the fur, whatever
4 kind of food I wanted, if I wanted caribou
5 I go up in the mountain; if I wanted colored
6 fur I went up in the mountain; in delta I get
7 mink, muskrat; but I never make a big trapper,
8 I just get enough for my own use in the
9 coming year. For next year them animals
10 are going to be there anyway, that's my bank."

11 This evidence and other
12 similar pieces of evidence you've heard is sufficient
13 to show that the Inuvialuit can argue that they have
14 a lex loci which, though different from the
15 European system, is logical, sophisticated and
16 understandable.

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1 It may be argued by the govern-
2 ment and by the applicants that whatever rights the
3 Inuvialuit have in their lands, they amount to no more
4 than the estate of fee simple in the land. This would
5 make the land susceptible to expropriation. An estate
6 of fee simple in the lands implies a tenurial
7 relationship between the crown--

8 THE COMMISSIONER: I'm sorry,
9 but page 10.

10 MR. BAYLY: Did you get a
11 blank page, sir?

12 THE COMMISSIONER: A blank
13 page. Sorry, carry on.

14 MR. BAYLY: As I said, this would
15 make the land susceptible to expropriation and I'm just
16 at the top of the page, sir. An estate of fee simple
17 in the lands implies a tenurial relationship between
18 the crown and the native people. In the evidence you've
19 heard from and about the Inuvialuit, there is no
20 evidence of such a relationship between the present
21 or any former sovereign. We submit, therefore, that
22 it is arguable that the Inuvialuit have an allodial
23 right to the land. An allod is the highest category of
24 ownership known to the common law, and it consists of
25 an absolute right of ownership. It is not a mere estate
26 and is not subject to the higher rights of the crown.

27 On the opposite page, I've put
28 a photocopy of the definition of allod from Black's Law
29 Dictionary for your information, sir.

30 It is therefore arguable that the

1 Crown may have no more than a right to acquire the
2 land from the Inuit by virtue of their sovereignty.

3 It is arguable from the evidence
4 that the title of Inuvialuit is more than the
5 usufructary and communal rights to which various
6 parties in this Inquiry have referred. It is unclear
7 what the full nature of the title is at this point.
8 It is sufficient for the purposes of this Inquiry to
9 say that the lack of clarity as to the nature and
10 extent of the title is in itself a compelling reason
11 for settling the claims that native people have prior
12 to the commencement of the construction of the pipeline
13 and related facilities.

14 Now, that claim is based on
15 land use, sir, and I have a section on land use and
16 land use planning.

17 The Inuvialuit have traditionally
18 used and occupied the lands and waters on which
19 development is proposed. These lands and waters continue
20 to be important to them, economically and culturally.
21 Accordingly, the Inuvialuit have special rights in these
22 areas, both legal and moral. Industrial development
23 is frequently incompatible with traditional activity.
24 The present applications, along with other proposed
25 developments pose a clear threat to the Inuvialuits
26 continued use and enjoyment of these lands and waters.

27 Because the Inuvialuit are the
28 traditional users of the land with special rights to it,
29 the burden of proof in any land use controversy must
30 lie with those who seek to engage in new uses of the land.

Where any reasonable doubt exists as to the potential harm of any proposed activity, the proponent must prove to the satisfaction of the Inuvialuit that this activity will not be detrimental to established uses. The Inuvialuit must be under no obligation to prove that such damage will occur in order to prohibit or restrict such uses. Because the Inuvialuit have special rights to their land, under no circumstances should the doctrine of "balance of convenience" be an acceptable criteria for determining land use.

We believe that the following things are required, as part of or in addition to a land claim settlement and must be agreed to and implemented prior to the granting of a permit to construct a gas pipeline. Now, I've used the version that's in the filed copies, so the wording may be different, by the sections will be the same.

1. The first category consists of land selection by the Inuvialuit as part of a land claims settlement. COPE cannot say at this time what amounts and what areas would be selected as this is a matter for negotiation with the Government of Canada. Most land selected by the Inuvialuit would probably be set aside exclusively for traditional activities, but not all lands would necessarily be prohibited from industrial use. Usually selection would involve large blocks of land. An example is the area of the proposed Cape Bathurst, Husky Lakes freeze, and there's an

1 Exhibit No. 256 which refers to the proposal for that
2 freeze which was filed in Tuktoyaktuk.

3 Much of the lands selected, existing exploration
4 permits would be cancelled. Responsibility for
5 any compensation to industry must rest with the
6 Government of Canada. Lands selected by the
7 Inuvialuit must be exempt from expropriation
8 for industrial uses or transport corridors.

9 The second category consists
10 of lands withdrawn for other purposes, possibly but
11 not necessarily as part of a land claims settlement,
12 except that such withdrawals must not prejudice
13 Inuvialuit selection. Substantial areas of land must
14 be designated jointly by Inuvialuit, the Government
15 of Canada and other interested parties as parks, or
16 reserves, for single or restricted uses. Such lands
17 would be withdrawn from possible industrial development.
18 The Inuvialuit contemplate that their rights to
19 subsistence harvests would continue in these areas.

20 The third item requires--

21 THE COMMISSIONER: Excuse me,
22 your point is that those withdrawals should occur before
23 a right-of-way permit is granted?

24 MR. BAYLY: Yes sir, this section
25 is based on the requirement that there be a land use
26 plan for the western Arctic.

27 THE COMMISSIONER: Yes.

28 MR. BAYLY: Land selection by
29 native people should be part of that land use plan and
30 land selection for other purposes as well.

1 The third item requires change
2 in game and fishing regulations to enshrine traditional
3 Inuvialuit hunting and fishing rights, and to provide
4 for the exclusive access by the people to fur, fish
5 and game. The most comprehensive proposal in this
6 regard is the Inuit Hunting Rights Brief which is
7 Exhibit 687 to this Inquiry, which COPE endorses in
8 general. The special hunting and fishing rights of the
9 Inuvialuit shall be exercised over all public lands;
10 unless by their own consent there shall be restrictions
11 on certain reserves for management or scientific
12 purposes. It may be necessary to restrict non-native
13 access for tourism and recreation to certain parts of
14 both public and native lands.

15 The fourth requirement is that
16 the Inuvialuit must have substantial and effective
17 influence on the planning and regulation of all develop-
18 ment activity on all public lands not withdrawn from
19 those purposes. There shall be a land use planning
20 commission with effective input from native communities.
21 The commission must include representatives of the
22 Inuvialuit, the government, and national
23 environmental and conservation organizations. Its
24 task shall include but not be restricted to the
25 following:

- 26 a) land withdrawal according to recommendation 2.
27 b) developing realistic land use evaluation and
28 managing procedures for northern environments.
29 c) designating sensitive areas where particularly
30 stringent screening of land use and development

- 1 proposals would be required.
- 2 d) designating specific land management zones and
3 recommending management plans for each.
- 4 e) recommending measures to maintain biological
5 productivity on public lands to protect fish and
6 wildlife populations and habitats, and set
7 minimum standards of conservation.
- 8 f) recommending temporary freezes on lands not
9 yet withdrawn according to recommendations 1 and
10 2, or on public land until improved protective
11 measures are implemented.
- 12 g) coordinating land use planning with those
13 responsible for the management of Inuvialuit
14 lands.
- 15 h) designating potential transportation and transmission
16 corridors.
- 17 i) making recommendations on the timing and sequence
18 of industrial development.
- 19 j) having input to the revision, administration and
20 enforcement of existing statutes and regulations
21 such as the Territorial Land Use Regulations, as
22 well as coordinating its plans with those of
23 special agencies such as any proposed Mackenzie
24 Valley Pipeline authority.

25 I fear that the authorization
26 and construction of a pipeline prior to the implementation
27 of these measures will prejudice Inuvialuit partici-
28 pation in land use planning.

29
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1 This has been stated clearly
2 and often by Inuvialuit and let me remind you by
3 quoting from Vincent Steen's words in Tuktoyaktuk:

4 "The Eskimo is asking for a land settlement
5 because he doesn't trust the white man any
6 more to handle the land that he owns and
7 he figures he's owned for years and years."

8 Now, we go onto a section
9 on project regulations, sir, and it deals with not
10 only the regulation of the pipeline project but
11 those things which may accompany and follow it.

12 Much of the evidence you have
13 heard has pointed out the inability of present agencies
14 to enforce stipulations on present and future develop-
15 ments. It is clear that the environmental impact of
16 a pipeline project would depend in part upon how
17 effectively stipulations are enforced. Evidence before
18 this Inquiry has shown that under present legislation
19 and with existing agencies permit stipulations may not
20 be adequately enforced. (I refer you to comments
21 by Dr. Stephen regarding the political nature of some
22 enforcement decisions, where he said at Volume 139
of the transcript:

23 "I consider it my job to put a halo and wings
24 on my Minister."

25 And when asked "Sometimes that may occur at the
26 expense of the environment."

27 He answered, "That's right.")

28 The Inuvialuit do not trust
29 the Department of Indian & Northern Affairs or the
30

Department of the Environment with the possible exception of Fisheries Service, to protect their northern ecosystems from the environmental and social effects of operations by large politically influential corporations. They feel that the Department of Indian & Northern Affairs have demonstrated its lack of an environmental conscience on many occasions. Therefore we submit that the Department of Indian & Northern Affairs should not be allowed to dominate the surveillance of a pipeline project and the Department of the Environment must be removed from its position as a poor relative before its agencies (other than Fisheries and Marine Service) can be effective.

If present government agencies were used to regulate any pipeline project, much of that regulation would come under the Territorial Land Use Regulations. Even if a regulatory agency is formed, future exploration and development generated by a pipeline project would probably be regulated by established agencies.

You have heard it clearly stated in the communities that people are dissatisfied with the present methods of issuing land use permits and enforcing their stipulations.

Billy Stoor in Aklavik pointed out that the community often has little or no time to consider land use applications. Randy Pokiak in Tuktoyaktuk explained the attempts of delta hunters and trappers to form a Regional Committee to express

1 their concerns to the Department of Indian & Northern
2 Affairs.

3 Decision-making processes must
4 be revised to include effective participation by native
5 groups. Consideration must be given to long-term
6 and cumulative effects of operations. Penalty pro-
7 visions must be rigidly enforced and operators must be
8 required to satisfactorily complete stipulations
9 under one permit before being issued another.

10 The Territorial Land Use
11 Regulations are now almost five years old and they are
12 still inadequate to control land use operations.
13 The recommendations outlined in our submission shows
14 the kinds of changes which would have to be wrought
15 in a single government agency before it could adequately
16 do the job it is required to do now.

17 COPE has presented evidence
18 on the inadequacies of other government agencies and
19 made suggestions for the improvement in them to meet
20 their present responsibilities. But Inuvialuit say
21 that the agencies which have the legal responsibilities
22 for environmental protection would be incapable of
23 dealing with a pipeline project.

24 COPE does not assume that a
25 Mackenzie Valley Pipeline will be built. However,
26 Inuvialuit recognize that their preferences may not
27 always receive the attention they merit. Therefore
28 COPE decided to include in its recommendations minimum
29 requirements for a Mackenzie Valley Pipeline Authority.

30 The environmental stipulations

1 imposed upon any Mackenzie Valley natural gas pipeline
2 can be handled adequately only by the formation of a
3 regulatory authority. The Mackenzie Valley Pipeline
4 Authority would be established to do the following
5 three things:

6 (1) administer and enforce environmental stipulations
7 and operating conditions to be imposed on the pipeline
8 company and its contractors;

9 (2) determine compensation to individuals or groups
10 for damage to the land or loss of income as a result
11 of pipeline-related activities;

12 (3) research the environmental effects of pipeline
13 construction and operation both long and short-term.

14 The authority must be respon-
15 sible only to Parliament and must be established by
16 Statute. It must report its activities to the public
17 monthly and issue a semi-annual public report. The
18 authority must be controlled by a small Board including
19 Inuvialuit and Dene representatives. The chairman must
20 be a professional environmentalist whose appointment
21 must be subject to veto by native associations.
22 COPE's recommendations outline a model for the authority.

23 A program of long-term
24 research on environmental matters in the north must
25 be initiated by responsible agencies in consultation
26 with native organizations. The objectives of such
27 research must be to provide a background of information
28 which can be used in assessing the likely effects of
29 proposed land use operations on Inuvialuit and Crown
30 lands; to break the present pattern of reactive research;

1 and with the appropriate Hunters and Trappers Associa-
2 tions to develop a management plan and population
3 monitoring scheme for locally exploited populations
4 of fish, marine mammals, large game and migratory birds.
5 Management plans must have the following priorities:
6 (1) Populations harvested by Inuvialuit and at risk
7 because of actual or proposed developments;
8 (2) Non-harvested populations at risk because of
9 actual or proposed developments;
10 (3) Populations used by Inuvialuit for subsistence
11 or commercial purposes where there is no proposed
12 development.

13 All research reports must be
14 public documents. Each scientist must be responsible
15 for the production of a simplified summary of his
16 findings.

17 Obviously, industry must
18 regulate some of its own activities. However, in light
19 of the Alaskan experience it is difficult to recommend
20 a mechanism by which this can be done effectively.
21 Extra damage which results from failure of quality
22 assurance and quality control -- those are the terms
23 that were used in Alaska -- is unacceptable to Inuvial-
24 uit and must be prevented by authority supervision
25 and monitoring.

26 Each community affected by
27 pipeline activities must be provided by the authority
28 with a list of problems that its residents may wish to
29 discuss and help solve. The community shall be respon-
30 sible for deciding the extent to which it wishes to be

1 involved in the decisions.

2 COPE recommends that a public
3 auditor group be formed with access to all documents
4 and reports. Although the proper role for Inuvialuit is
5 in a policy-making position of control, groups repr-
6 esenting the other public interests should be represen-
7 ted by this auditor group.

8 We haven't had a chance to
9 really think about what Mr. Templeton said yesterday
10 comparing an ombudsman and an auditor group, but if
11 we do have some thoughts about that, sir, we may include
12 that in a letter to you when we're commenting specifi-
13 cally on Commission counsel's work.

14 On the subject of routing,
15 we do two things.

16 (1) We deal with the problem Inuvialuit have in
17 responding to the various routes and route changes which
18 have been put and continue to be put before various
19 public Boards, and suggest ways that the route selec-
20 tion process can be a response to public planning;

21 (2) We respond in a general way to the various routes
22 and in a specific way to the proposals which the
23 applicants places before this Inquiry.

24 First, the problems of
25 responding to given routes for pipelines which have
26 arisen since the publishing of the guidelines and which
27 have continued through this Inquiry's proceedings and
28 which promise to continue are-- and I list about six
29 of these:

30 (1) Four applications to construct northern gas pipelines

are presently before tribunals in this country and the United States. Two of these, if approved, would likely mean that no pipeline would be built in the Mackenzie Valley for a number of years.

(2) Since the Inquiry began, Arctic Gas has changed approximately 50% of its route including relocations with major environmental consequences, such as the cross-delta route. Because of its present uncertain position regarding frost heave, we may see many more route, as well as design changes. Foothills has also proposed important realignments and has shown its route selection to be in a very preliminary stage. Dr. Clark, who appeared for Arctic Gas, stated that route alignment is a matter for final design, that river crossing locations must be designated before the overland links can be finalized. We are faced with the probability that many of the site-specific recommendations of the Inquiry may not be applicable to the final alignment of the successful applicant.

(3) Despite industry's contrary contentions, we submit that pipelines and other industrial facilities are incompatible with some other land uses and pose unacceptable risks to some lands and waters. Minor route changes such as those proposed to deal with site specific problems (such as peregrine falcon nest sites) will not adequately solve many environmental problems. Imposing specific and rigorous stipulations and regulating as strictly as possible will not make each land use compatible with all others. Neither will the most sophisticated contingency plans or

1 compensation mechanism provide the cure or somehow
2 make the risks worth taking in some areas.

3 (4) The Pipeline Guidelines envisage that gas and
4 oil pipelines can and will be located along the same
5 routes and close to one another. However, there
6 is no consensus on the wisdom of developing corridors.
7 Nor is there agreement on the nature or magnitude of
8 the possible impacts of these corridors. In addition,
9 some routes may be acceptable for one facility and
10 not for others. Even the applicants might agree with
11 that.

12 (5) In the Western Arctic, land is being committed
13 piecemeal for uses which preclude its selection for
14 others. No co-ordinated efforts have been made to
15 set aside areas which are necessary for the maintenance
16 of traditional lifestyles. IN fact, there is evidence
17 before you that there have been concerted efforts
18 by government and industry to prevent such designations.

19 (6) Planning is inadequate for the present level of
20 activity and nobody seems to understand what land use
21 planning should be or how to prepare a land use plan
22 for the Mackenzie region.

23 If the demand for a Mackenzie
24 Valley Pipeline is not now as strong as it was two
25 years ago when this Inquiry began its work, we may
26 have an opportunity to address these problems with a
27 comprehensive plan rather than planning the future
28 of the Mackenzie Valley by responding to a pipeline
29 proposal.

30 We recommend dealing with

1 these problems by developing a land use plan for the
2 Western Arctic. We have discussed this in the land
3 use section, which is expanded on in the other document.

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Turning to unsolved problems.

The applicants before this Inquiry have been unable to prove that they are capable of building northern pipelines. No permit for any pipeline in northern Canada should be issued until it can be proven that:

- 1) snow roads can be built, maintained and used for construction in tundra areas;
- 2) frost heave can be controlled by a method which is not harmful to the environment. Assurances of scientists are not adequate. Data must be provided which can be tested experimentally by third parties;
- 3) winter construction will be able to meet proposed schedules allowing for cold weather and delays for environmental reasons.

Now, we have a list of what we consider minimum requirements for northern pipelines. Regardless of the timing of approval of any northern pipeline, this Inquiry ought to make recommendations of general applicability to any northern route, as well as recommending that specific stipulations apply to specific routes.

Our recommendations for northern pipelines are based on the following criteria:

- 1) that pipeline construction activities are unacceptable in certain geographical areas.
- 2) that construction activities are unacceptable at certain times of the year, for environmental reasons.
- 3) that construction activities may cause unacceptable

1 disturbance of certain species of wildlife.

2 4) the fact that some construction has already been
3 allowed in an area does not necessarily mean that
4 other construction projects in the same area are
5 acceptable.

6 Proponents of development appear
7 to think that if proper safeguards are taken, industrial
8 activity is compatible with any and all environments.
9 Witness the Beaufort Sea offshore drilling debate,
10 the drilling in Kendall Island Bird Sanctuary and the
11 plans to dredge Tuk Harbour.

12 COPE submits that resource
13 development activities are not compatible with every
14 landscape. Environmental values cannot be maintained
15 in all cases by regulating the activities of developers.
16 Prior to the approval of any pipeline application,
17 exclusion areas must be outlined and protected by
18 legislation. This Inquiry has heard considerable
19 evidence that in some locations a gas pipeline would
20 be acceptable but an oil pipeline, or a transportation
21 corridor would not.

22 However, the COPE Board of
23 Directors feel that if one facility, that is a gas
24 pipeline, is allowed to proceed, it may be impossible
25 to stop others. Any areas in which corridors are
26 unacceptable are therefore also unacceptable for
27 single facilities. Some locations in which development
28 is acceptable during some parts of the year require
29 special protection or avoidance during other times.

30 Many of the critical periods

1 concern natural phenomena, such as the migration of
2 birds, animals and fish, the dates of which cannot
3 be pinpointed. These areas must be located and early
4 and late dates of avoidance or restrictions must be
5 established prior to a permit being issued. If the
6 project is unable to proceed within that framework,
7 it must be located elsewhere.

8 The requirements listed below
9 are considered by COPE to be minimum requirements
10 which should apply to any natural gas pipeline built
11 in the North. Inuvialuit recognize that the Berger
12 Inquiry may have been a phenomenon which will not be
13 repeated. COPE has, therefore, prepared this list
14 of recommendations which may be drawn on as applicable
15 to pipelines in general, expecting that Inuvialuit or
16 other native groups may wish them to be applied to
17 other pipeline projects elsewhere in the North.

18 The recommendations which are
19 outlined in COPE's submission are based on two
20 assumptions:

- 21 1) that if an oil pipeline is to be built, another
22 Inquiry will be held and new sets of stipulations
23 will be written;
- 24 2) that standard mitigative procedures will be
25 established by the pipeline company and approved
26 by the authority before construction begins.

27 Now, dealing with specific routes
28 that are before this Inquiry. Among the specific routes
29 before you, COPE objects strenuously to any pipeline
30 crossing the Northern Yukon. Both the circum-delta and

1 the Cross-delta routes threaten to cross lands which
2 are important to present and future economies of
3 Inuvialuit and to a multitude of wildlife species.

4 The hazardous risks to these
5 areas either by a pipeline project or by developments
6 which may follow it are unacceptable to Inuvialuit.
7 Frank Elanik, Andrew Archie and Andy Kayotuk in
8 Aklavik and Colin Allen, Ishmael Alunik and Victor
9 Allen in Inuvik explained the importance of the north
10 coast and delta areas to Inuvialuit.

11 The interior route crosses
12 lands of the Dene of Old Crow and Fort McPherson
13 areas. COPE supports the Council for Yukon Indians
14 and the Northwest Territories Indian Brotherhood in
15 their claims and recommendations for these areas.

16 The northern Yukon and outer
17 delta are among those areas in which regulations of
18 activities alone cannot provide adequate environmental
19 and social protection.

20 In the future a Mackenzie Valley
21 trunk pipeline may be acceptable to Inuvialuit, provided
22 that winter construction methods are used, communities
23 and renewal resource based industries are assured
24 priority and the use of scarce resources and specific
25 environmental stipulations are rigidly enforceable and
26 enforced.

27 The Alaska Highway route appears
28 attractive to Inuvialuit and may prove to be of less
29 environmental concern than routes crossing the northern
30 Yukon. COPE recommends that environmental and social

1 research be designed in conjunction with the Council
2 of Yukon Indians and communities along that route.
3 Community hearings acceptable to the local people must
4 be held in all communities affected by such a line
5 prior to a decision being made.

6 A coordinated scientific study
7 of the delta must be done prior to any additional
8 development projects. Scientists are unable now to
9 accurately assess the damage already done to the
10 wildlife population. Inuvialuit fear that continued
11 damage will go undetected by scientists unless very
12 careful studies of the environment before, during and
13 after development are carried out.

14 In the recommendations, specific
15 research requirements are outlined relating to future
16 delta and offshore developments.

17 Now, land selection prior to
18 selection of industrial sites or transportation routes
19 is a vital prerequisite to route selection. Jimmy
20 Jacobsen in Tuktoyaktuk outlined the importance of land
21 reserves to Inuvialuit. He said, and I quote:

22 "We feel that Eskimo Lakes and Cape Bathurst should
23 be just like a reserve, kept free; not just kept
24 free for two or three years, completely have it
25 for a reserve in case a pipeline comes up, we got
26 something to go back on to keep our good hunting
27 ground, because if that pipeline ever come up,
28 people will be only rich for one or two years".

29 The authority must ensure
30 compliance with all environmental stipulations and have

1 the power to suspend or shut down all parts of the
2 project, or any parts of the project, if its demands
3 are not met or if it is required for environmental
4 protection.

5 Failure to comply with an
6 inspector's instruction must be a statutory offence
7 carrying severe penalties for individual offenders,
8 their supervisors and responsible management.

9 Money is neither appropriate
10 nor adequate compensation for loss of the use of
11 renewable resources by native people, and you've heard
12 evidence on that from Alaska. However, individuals
13 or groups deprived of food or income because of non-
14 natural population declines or damage to traps or nets
15 must be assisted in supporting themselves.

16 Consultations among the
17 authority, the communities and the native organizations
18 must outline appropriate ways of providing compensation.
19 Peter Thrasher in Aklavik and William Nasagaloak in
20 Tuk outlined the need to establish ways of granting
21 compensation. Inuvialuit know when changes take place
22 in the populations of animals upon which ^{they} depend, but
23 they are seldom in a position to know and almost never
24 able to prove what causes declines or other damage.

25 Joe Nasagaloak in Tuk outlined
26 some changes he has seen, and I'll remind you of those.
27 "He said a long time ago he used to be able to
28 fish all fall, but the last two summers he hardly
29 got any, especially last fall. He doesn't know
30 what's causing it, whether it's the oil companies

1 that are working down by the ocean, or maybe
2 it's something else. He's not sure, but he
3 knows for sure since the last two summers that
4 he's been fishing the fish are really poor".

5 When cross-examined by Glen
6 Bell, Dr. Peter McCart said this about establishing
7 liability, and I quote:

8 "If the only evidence you have is that in one
9 year people caught fewer fish than they caught
10 over an average of the previous ten years, you
11 don't have that kind of certainty.

12 I think you would have to have some dead fish
13 in hand and you would have to be able to examine
14 them or examine the circumstances in which the
15 fish died to establish that it was in fact the
16 pipeline".

17 Mr. Marshall brought up the
18 statement of Mr. Jackimchuk yesterday. Mr. Jackimchuk
19 said:

20 "It is, in fact, my expectation that actual losses
21 or effects attributable to the pipeline, both
22 short and long-term will be negligible".

23 If you recall at page 10239 of
24 the transcript, Dr. Calef took those words and said this
25 about them:

26 "This is meant to be a reassuring statement...",
27 referring to Dr. Jackimchuk's,

28 "...a statement of optimism. I would like to turn
29 it around to be a dire warning. I think it is
30 absolutely true that actual losses or effects

1 attributable to the pipeline will be negligible;
2 not necessarily because they don't occur, but
3 because they will not be directly attributed
4 to the pipeline. We will not be able to attribute
5 them with certainty to the pipeline".

6 For that reason, we say that
7 the pipeline company must post a performance bond and
8 an amount to be determined by the authority. The
9 terms must require that the bonds shall be paid to,
10 among other things, the individuals, hunters and
11 trappers associations or communities for damage caused
12 by pipeline activity.

13 The details must be worked out
14 with the Inuvialuit, but must include the requirement
15 that the bond or portions of it shall be payable unless
16 the company can show that the damage or loss of
17 livelihood were not caused by either the pipeline or
18 related activities.

19 Other projects must be subject
20 to the same kind of bond requirements. Now, Mr.
21 Commissioner, it's twenty after ten. Do you want to
22 stop for coffee before I go on? I've gotten half way
23 through the direct part of the presentation.

24 THE COMMISSIONER: Sure. We'll
25 stop for coffee then.
26 (PROCEEDINGS ADJOURNED)

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: Let's come to order again, ladies and gentlemen.

MR. BAYLY: Mr. Commissioner, if I may begin again with the section that is entitled, "Community Consultation."

THE COMMISSIONER: Let's pull ourselves together and consider what Mr. Bayly is about to say to us.

MR. BAYLY: On the subject of community consultation, COPE's recommendations throughout the argument emphasize the requirement for continual consultation among government, industry and original peoples regarding the details of any pipeline which may be built. It has also been pointed out before this Inquiry that appropriate mechanisms need to be developed to allow communities to participate in decision-making which affects their future. Elsewhere in the argument we have outlined formal structures existing and proposed in which native people want more say. But community consultation is more than this.

This Commission has visited every town, village, hamlet, settlement and outpost in the Mackenzie Valley and nearby Arctic Islands. You have heard from as many people as wanted to speak. It must have been obvious that people in this area want to speak for themselves. They are not prepared to delegate everything to their representatives in any organization. Furthermore, the communities are

1 rich in wisdom and opinion. Many of those whose
2 thoughts are valuable are not prepared to spend all
3 their working lives as committee members, appointed
4 or elected officials. We do not propose administrative
5 and regulatory bodies with Inuvialuit representatives
6 as an alternative to community consultation but in
7 addition to it. The consultation requirement indi-
8 cated in many of our recommendations does not mean
9 that each specific borrow pit design, for example,
10 has to be discussed in each community. At such time
11 as a pipeline is built, hopefully with the agreement
12 of the communities, the detailed day by day advice
13 on environmental issues required by these recommenda-
14 tions can be provided by the Inuvialuit members of the
15 Authority's Board. It would then be the responsibility
16 of these representatives to seek advice from communi-
17 ties or native organizations as they require it.

18 This continuing process will
19 only work once a project has begun and under circum-
20 stances in which Inuvialuit representatives are in
21 continuing contact with government agencies at such
22 a level that their voices must be heard and must have
23 influence. This will only work if it is seen to be
24 fair; that is, if original peoples desires on large
25 issues as well as small ones are sometimes met.

26 Developments proposed in the
27 future, other than a Mackenzie Valley Pipeline, must
28 also go through a process of community consultation.
29 We propose a mechanism for such consultation. In order
30 to be worthwhile and effective, community consultation

1 programs must meet the following criteria:

2 (1) Environmental and social assessments must begin
3 at the same time as the preliminary economic and
4 technical feasibility studies.

5 (2) Assessments must consider cumulative impacts.
6 Inuvialuit must be involved in study design and
7 execution.

8 Secondly, community and original peoples
9 organizations must be advised of the proposal at that
10 time and must be kept in touch with its progress.
11 Type and timing of consultation required shall be
12 decided by and in consultation with these organizations.
13 They shall also be requested to assist in identifying
14 studies which need to be carried out.

15 (3) Details of the proposed project and all
16 assessments must be publicly available at all stages.
17 Relevant data must not be kept secret.

18 (4) Information must be presented in ways which are
19 and are seen to be objective. The negative as well as
20 the positive impacts of major developments must be
21 presented. Probable and possible future developments
22 which will result from any project must also be discus-
23 sed in a general way.

24 (5) Socio-economic assessments and consultation
25 processes must include the influences of the project
26 on qualitative phenomena such as social relations,
27 political development and control, family and community
28 life, cultural values and general social well-being.

29 (6) Consultation must always include a consideration
30 of overall impacts and the question of whether or not

1 the project should proceed at all. This point cannot
2 be over-emphasized. The no-development option must
3 be a real possibility.

4 (7) The long range objectives and total pattern of
5 the development must be presented. People must be
6 invited to consider the total development picture
7 rather than individual components separately. There
8 must be a long range scenario of what resource
9 development in a particular region could lead to. Mr.
10 Shearer's scenario of the possible proliferation of
11 oil and gas wells in the Beaufort Sea is an example,
12 though we envisage these scenarios being presented
13 in much greater detail.

14 Promises made by government and industry during
15 the consultation process (regarding such things as
16 restrictive regulations, enforcement, etc) must be
17 fulfilled;

18 (9) Local people must not only be consulted, they
19 must be part of the decision-making process. The
20 assumption that legitimate Inuvialuit concerns can all
21 be handled by proper regulation of a project must be
22 tested in each instance. In some cases, it may be
23 necessary to abandon a project.

24 COPE recommends that consulta-
25 tions on future possible major developments be handled
26 using this hearing as a model. To deal with smaller
27 proposals, existing structures such as the Environ-
28 mental Assessment Review Process and the Land Use
29 Committee might be revised to include Inuvialuit in
30 the decision-making processes and to provide for public

1 accountability.

2 Annie Goose of Holman
3 Island summed up Inuvialuit feelings about present
4 consultation processes, and I quote her:

5 "We Inuit don't have very much voice because
6 we've never been given any chance to go on
7 any committee the Minister has to listen to.
8 They tell us one time, 'If you people want
9 oil, you have to either say yes, or if you
10 say no, well then you can't do anything
11 about it.' That clearly shows that they
12 want to rush us all the time."

13 Now I'm turning to the subject
14 of economic development. It is well known that
15 there are two economies in the north, and they are
16 sometimes called the modern and the traditional econom-
17 ies. This is typical of a colonial hinterland
18 economy like that in the north. They are not separate
19 and today the growth of one threatens the survival
20 of the other. Hunting, trapping and fishing continue
21 to be of great importance to native people, certainly
22 far greater than the applicants have suggested. Let
23 me illustrate this with the words of the president of
24 the Inuvik Hunters & Trappers Association, Ishmael
25 Alunik:

26 "We hear all the time from the oil companies
27 and from the government, like the regional
28 plan, that the trapping and the living off the
29 land is dying out, and that the people all want
30 jobs. This is not true....More people now are

1 going back to trapping and living off the land
2 because they made money and they can buy their
3 equipment. We do not think of our jobs as a
4 substitute for living off the land. Jobs
5 are another way to help us live."

6 Native people need cash, and
7 therefore jobs, but they have said they want jobs and
8 hunting, not jobs instead of hunting.

9 The wage economy has not
10 served native people well in the past. Employment
11 has been unsteady and insecure, and native people
12 have mostly unskilled, low paying jobs. Very few
13 native people have benefitted from business opportuni-
14 ties. They have had no share of profits from develop-
15 ment, and no control over government or industry
16 investment. The legacy of this failure is deep
17 distrust as the evidence shows, and I'm quoting here
18 from Vincent Steen from Tuktoyaktuk. You recall that
19 he said:

20 "You took everything they had and you gave
21 them nothing. You took all the fur, took all
22 the whales, killed all the polar bear with
23 aircraft and everything and put a quota on
24 top of that so we can't have polar bear when
25 we feel like it any more. All that we pay for.
26 Same thing with the seismic outfits. You
27 plough their trap... now they want to drill
28 out there. Now they want to build a pipeline and
29 they say they're not going to hurt the country
30 while they do it. They're going to let the

1 Eskimo live his way, but he can't because
2 no way, because the white man has gotten
3 not only so that he's taken over, taken
4 everything out of the country and everything
5 but he's also taken the culture, half of it
6 anyway."

1 Now, the kinds of employment
2 offered on the construction of the pipeline and related
3 developments do not suit the long-term needs of native
4 people. Especially on pipeline construction itself
5 the unions and the contractors have made it clear that
6 the experience and team work required as well as
7 considerations of safety and equal treatment on the
8 job means that very few native people will have hired.

9 They say employment schedules
10 will not be that flexible. Emphasis on native
11 employment may have to be in the construction of
12 compressor stations and gas plants and in exploration
13 and development where there will be greater opportunity
14 and flexibility. But even employment on ancillary
15 facilities, well paying though it may be in the long-
16 term, is not in the communities and it is not long-
17 term; not always long term. It is not always compatible
18 with hunting and fishing and trapping.

19 These jobs can be of temporary
20 benefit to native people, but should not be relied upon.
21 The experience or training native peoples get on them
22 will probably not be useful in their home communities
23 and may not be useful anywhere in the North in later
24 years. Probably very few Inuvialuit will want or get
25 employment in pipeline construction.

26 In order to ensure adequate
27 opportunity and treatment for those who do, however,
28 COPE demands the right to be an active participant
29 at all pre-job conferences between unions and management
30 related to pipeline or any other major construction. The

1 kind of employment offered on the operations and
2 maintenance of the pipeline and gas plants is also
3 unsuited to the needs of native people. These are
4 jobs for which the Nortran training program--Nortran
5 program is training people. They are full-time jobs
6 not in the communities and not compatible with
7 hunting and fishing.

8 The Nortran program leads people
9 out of their communities and away from native life
10 in preparation for these jobs. It trains people for
11 jobs which exist mainly in the south, not in the north.
12 It seeks to reorient people to southern values and
13 ways of life. It creates bad feelings among non-native
14 co-workers.

15 Therefore, COPE does not ask
16 for special hiring and employment provisions on the
17 pipeline. COPE says native people must have equal
18 access to union membership and employment on the basis
19 of their actual competence for the jobs, and that they
20 not be put at a disadvantage by virtue of their
21 background or place of origin.

22 We think quota systems or
23 preferential hire will only create more problems than
24 they solve. COPE states that the government's pipeline
25 guidelines for native employment and business have
26 been wrong. We do not blame the companies for following
27 them because that is what they were told to do. But the
28 guidelines themselves do not meet the real needs of
29 native people, and may be unworkable and impractical
30 as well.

1 The guidelines impose extra
2 costs on both government and industry and native
3 people never ask that these costs be imposed. However
4 useful and necessary a pipeline may be to others it
5 cannot be presented as a cure for the economic ills
6 of native society. COPE cannot accept the narrow and
7 uninformed view of the pipeline as the only salvation
8 of a degraded and helpless people.

9 Native people do not want the
10 crumbs from the tables of oil and gas development.
11 COPE recommends that employment guidelines be rethought
12 in consultation with original peoples.

13 We believe there will be few
14 new employment opportunities for native people in
15 government or in service jobs created by pipeline
16 development and very few new business opportunities.
17 The pipeline companies have no control over these
18 jobs, and past experience has taught Inuvialuit that
19 outsiders get most of the benefits.

20 Now, will tax and royalty revenues
21 benefit native people? We know this money will not
22 go directly to native people but to the Federal
23 Government. So native people won't control that money
24 anymore than they can control taxes now.

25 COPE, therefore, strongly recommends
26 that the Inuvialuit must have control over the economy
27 and their own communities prior to any major development.
28 COPE says Inuvialuit need and have a right to balance
29 long-term developments based on local resources and
30 community based and controlled enterprises.

1 COPE recommends an alternative
2 development program suited to the needs of native
3 people which include the following things:

- 4 a) improved assessment and management of the renewable
5 resource base.
- 6 b) improved techniques and programs for renewable
7 resource harvesting.
- 8 c) making more money available to the traditional
9 activities.

10 These would increase the
11 efficiency of hunters and trappers as well as create
12 jobs in resource management at community level.

- 13 d) greater local processing of renewable resources.
14 For example, tanneries, garment manufacturing,
15 food processing to create community based and
16 controlled enterprises and employment.
- 17 e) substitute locally designed and manufactured
18 products for imports where practical. Obvious
19 examples are building materials and housing.
- 20 f) research and development into the possibilities
21 of new uses for local resources, new methods
22 of processing, new markets, et cetera. This
23 research must be carried out by and with native
24 people from the communities.
- 25 g) replacement of non-natives in government and
26 service positions in the communities by original
27 peoples. This alone would create a large number
28 of community based and controlled employment
29 opportunities.
- 30 h) reorientation of education and training programs

1 to enable original people to fill these kinds
2 of jobs.

- 3 i) at a later stage royalties from non-renewable
4 resource development must become available for
5 reinvestment in the renewable sector.

6 If the renewable resource
7 based industries develop in the western Arctic they
8 will require non-renewable resources for energy,
9 construction and operation.

10 Therefore, there must be no
11 preemption of gravel, timber, water or other resources
12 for oil and gas development without adequate consideration
13 of future Inuvialuit needs for other purposes. Now,
14 I referred to timber as a non-renewable resource there
15 in some areas where it may not come back, at least not
16 for a century.

17 Further, if oil and gas resources
18 are developed, they must not all be exported without
19 regard to the future economic needs of the region.
20 Natural gas as well as its byproducts must be available
21 for local use.

22 The government has never taken
23 alternative economic development seriously, and
24 Inuvialuit do not expect it to do so now or in the
25 future. It has reduced its efforts in this direction
26 in its rush to support oil and gas development. The
27 government could and should finance some of this
28 development by way of the programs and services it
29 provides to all Canadians. Only a land claim settlement,
30 however, can provide the measure of control necessary

1 to implement local development. It must be well under-
2 way, before any pipeline is built.

3 The Inuvialuit want to control
4 their economic development and in the words of Peter
5 Green from Paulatuk:

6 "We people are for development, but development
7 has to be done according to our terms. If
8 certain guidelines were set up by the people
9 that lives here in this country, there may be
10 certain types of development can go on. If not,
11 if no consultation is done with the Inuit people
12 that lives here, then forget about the thing
13 because it will be for one thing, it will be a
14 failure. A failure to both, maybe the government,
15 to the oil company, and worst of all to the
16 people that lives here in Paulatuk".

17 Now, original people don't want
18 to be just workers for someone else. They want to be
19 professionals, administrators, business people and
20 trades people. They want to take care of their own
21 communities. They want a balanced, integrated and
22 secure economy, not one which is dependent on one
23 outside controlled industry that will eventually
24 go away.

25 If the native population of the
26 North is to be viewed as a mobile labour pool to be
27 sent here and there as corporate resource development
28 projects demand, then the fabric of community life and
29 the traditional economy will surely be destroyed.
30 Accordingly, the bulk of native employment must be

1 community based and community controlled. This means
2 there must be smaller scale, locally controlled
3 enterprises which produce for local needs as well as
4 for outside ones.

5 If alternative development
6 based on a land claim settlement is not implemented
7 prior to the construction of a pipeline we foresee
8 the degradation of the traditional economy due to the
9 decline of the resource base, continued under-
10 capitalization, poor performance relative to the modern
11 economy and the diminished ability of the people to
12 participate in it effectively.

13 There is no evidence that any
14 significant number of native people will become
15 involved in the modern economy at any level than that
16 which they are now, the lowest. Witnesses in the formal
17 hearings, the community hearings and the southern
18 hearings have given evidence that similar fates have
19 overtaken native people in many other parts of the
20 world where externally initiated and controlled
21 industrial development has occurred on their lands.

22 We are aware of no contrary
23 outcomes in similar situations and none has been
24 described in evidence before you. The Inuvialuit of the
25 western Arctic do not want to share this fate.

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1 I turn now, sir, to the
2 potential impacts of this project and large projects
3 on native life and communities. Native people have
4 told this Inquiry that their culture and their way
5 of life, despite the damage done by outsiders in the
6 past, are not dead. They expressed a strong desire
7 to retain their culture, their language, their way of
8 life. They are concerned that their communities will
9 be overrun by outsiders in the future, and that they
10 will lose the control necessary to retain and develop
11 their culture, institutions and ways. Let us examine
12 again the things that they have to say. I'll quote
13 now from Yvonne Allen-Kisoun, who gave evidence in the
14 community hearing in Inuvik. She said:

15 "We wish to become self-sufficient, proud
16 members of Canada, and to contribute to that
17 society. We can do that only if we have our
18 pride, our culture, and our self-dignity.
19 We can do that only if we have certain --
20 if we are certain of our traditional lands
21 -- if we have certain of our traditional
22 lands so that those who choose the tradi-
23 tional life may do so."

24 And Leslie Carpenter in
25 Sachs Harbour spoke to you too, sir, and he said:

26 "They'll move into all our little towns and
27 little settlements and they'll build right
28 around us and we'll be caught in the middle
29 with modernization growing fast. The way I
30 see it is maybe like living in a ghetto.

1 Then that won't be our native life because
2 we won't be free. Once you take our free-
3 dom, you take most of our life. I'm satis-
4 fied with my life now and the way I live.
5 I don't think I really need a pipeline to
6 brighten up my day."

7 Those, sir, are both young
8 people that spoke to you, both teenagers, if you
9 recall.

10 THE COMMISSIONER: Yes, I
11 remember them both well.

12 MR. BAYLY: The adverse
13 impacts of development and of the assumption of
14 political, economic and social control by outsiders,
15 have been documented by many witnesses. Of particular
16 concern is the relationship between the recent intro-
17 duction of wage employment to the small native
18 Communities and the increasing incidence of alcohol
19 consumption, violence, child abuse and neglect there.

20 Some of the indices of social
21 disruption in the Northwest Territories appear to have
22 stabilized or decreased in the last year coincident
23 with decreased economic development activity. Both
24 native and non-native witnesses suggested many reasons
25 for this -- the increased political awareness of
26 native people and their desire to manage their own
27 affairs, the increasing articulation of their own
28 culture and values and pride in them, and the develop-
29 ment of their own associations which are providing
30 young people with alternative role models. If such a

1 massive project as the Mackenzie Valley Pipeline is
2 allowed to proceed so as to undermine these positive
3 developments there is every prospect that the high
4 levels of social and personal disruption will return,
5 that the opportunity for the Inuvialuit to gain
6 control of their own destiny will be forever lost.

7 In Alaska, without
8 special measures the impact of pipeline construction
9 has been devastating on small native communities both
10 close to the pipeline and distant from it. The
11 Inuvialuit fear the north will become like the south.
12 As Elijah Ookpik stated to you in Aklavik:

13 "When the pipeline is here maybe they will
14 end up with lots of money but what's going
15 to happen later on? The people down in
16 Saskatchewan, down in Alberta, they got
17 Indian Reservations down there, that's what's
18 going to happen here. You can't hunt, they
19 kick you around, you can't hunt, you can't
20 fish, you can't even walk in the coffee
21 shop, they kick you out."

22 We have said that the
23 maintenance of the viability of the small predominantly
24 native communities is an essential condition of the
25 survival of native society. While the Inuvialuit want
26 the opportunity to participate in Canadian society,
27 they do not want to be assimilated by it. Therefore
28 the terms and conditions made by this Inquiry should
29 seek to maximize the autonomy and self-development
30 of the original peoples, and to insulate native

1 society rather than integrate it with the pipeline
2 and related developments.

3 There are several specific
4 concerns. The first of these is inflation.

5 There is general agreement
6 that pipeline wages will be very high relative to
7 general income levels in the north. I won't discuss
8 here whether that's due to long hours or high hourly
9 wages. But many have expressed the fear that this
10 will create an inflationary situation locally. The
11 price of goods and services will rise, and all but the
12 few who are earning pipeline wages will suffer
13 accordingly. The applicants have expressed their
14 conviction that this will be minimized but we believe
15 that this problem is largely beyond their control.
16 There is also the problem of wage differentials
17 attracting many people out of essential community and
18 business services since local employers could not
19 compete with pipeline wages.

20 No generally accepted solutions
21 to the inflation problem has been offered to this
22 Inquiry and I include in the recommendations of the
23 participants that we've read, sir, and COPE has none
24 to offer either. COPE says simply that the
25 effects of inflation may be intolerable for native
26 people and that there is no justification for their
27 having to bear this burden. We therefore say that
28 solutions must be found before developments like the
29 pipeline are authorized. The communities must be
30 insulated from these inflationary impacts.

1 (2) Continuity of supplies and services. The
2 regular supply of essential goods and services to native
3 communities must be maintained. The provision of
4 essential transport services to native communities
5 must not be disrupted. This includes the price and
6 availability of chartered aircraft as well as regular
7 scheduled air service. Adequate and continuous tele-
8 phone service must be maintained in all Northwest
9 Territories communities -- and I'm referring speci-
10 fically to the pipeline impact region -- for
11 private as well as government and business users.
12 This will require adequate advance planning by the
13 responsible agencies.

14 Employment recruitment. We have recommended
15 that recruitment for industrial employment be
16 restricted to the large centres. There has in the
17 past been a decapitation effect of employment in which
18 the leaders and most skilled in the small communities
19 are continuously drawn off by employment pressures
20 elsewhere. Again, COPE does not know all the answers
21 to this problem but says that it must be solved before
22 construction is authorized.

23 (4) Day care. Where women are involved in wage
24 employment, adequate and low cost day care centres
25 must be available.

26 (5) Separation of pipeline workers. There must be
27 no access to the communities from pipeline or related
28 construction camps, and vice versa. Workers hired
29 in the south must be flown back to their point of
30 hire when they go on vacation or rotation, or when

1 they quit or are fired. The Inuvialuit must have
2 some control over who enters their communities and the
3 authority to ban people who are offending the community.
4 COPE supports many of the proposals of the applicants
5 to effect such separation, and to control the activi-
6 ties of their workers. The evidence of union
7 officials, however, as well as the apparently minimal
8 discussions to date between the applicants, government
9 and the appropriate unions, do not lead us to believe
10 that the applicants are capable of fulfilling these
11 promises.

12 (6) Control of transients. Two points in evidence
13 stand out, one is that although the applicants' pro-
14 jects or proposed projects will be the cause of an
15 influx of transients, the applicants do not have
16 any significant control over the number and types
17 of people who will come. The other is that so few
18 transients are needed to create disruption and strife
19 in the communities that their actual numbers are of
20 little consequence to the Inuvialuit. Accordingly,
21 the communities should be able to control the hiring
22 and firing of personnel in community service positions.
23 Residence requirements for hunting, fishing and
24 trapping permits must be ten years, except in the
25 case of sports hunting which may be subject to special
26 controls. All necessary legislative changes must
27 be in force before construction is authorized.

28 (7) Control of business and real estate. The
29 communities must have firm control over the establish-
30 ment of all enterprises, public or private. This means

1 absolute control by the original people over business
2 licences and real property purchases within and adja-
3 cent to the settlements.

4 These recommendations imply
5 a significant transfer of power and control to the
6 original peoples. COPE does not believe that this
7 will happen in the absence of a land claims
8 settlement. The construction of a pipeline prior
9 to a land claims settlement would be prejudicial to the
10 outcome of that settlement, since the essential re-
11 quirements for the survival of native society would
12 have already been jeopardized. As part of or in
13 addition to a land claims settlement the original
14 people must have the continuing power and control to
15 negotiate on all social and economic developments
16 affecting them as equals. The burden of proof of
17 social and economic impact must lie with those
18 who propose developments, not with those who must
19 suffer the consequences.

20 Now there's a short section
21 here on the role of government. The transfer of
22 power and control COPE envisages in a land claims
23 settlement will profoundly change the future role
24 of government at all levels in the north. COPE says
25 that these changes must come before a pipeline is
26 authorized. As well, there must be a review of
27 the programs and functions of these government
28 agencies which will continue to function after a land
29 claims settlement.

30 Both the Territorial and

1 local government systems in the north are based on
2 southern models and have been imposed without regard
3 to the political traditions and practices of the
4 original people. These alien systems have easily
5 fallen into the effective control of outsiders, even
6 where the original peoples are a majority of the
7 electorate or of the governing body itself. According-
8 ly, these systems cannot be said to properly represent
9 or effect the interests of the original peoples.

10 At the local level, settlement
11 and hamlet councils have been given increasing fiscal
12 responsibilities but little political authority.
13 The linking of tax base to municipal responsibilities,
14 according to the southern model, has meant that the
15 smaller native communities have the least control and
16 the larger, transient centres have the most. The
17 Inuvialuit do not reject the local government system,
18 but they feel they need time to learn to use it and that
19 certain important changes must be made to it. Only
20 then will they realize effective participation in
21 government at any level, and control over the
22 things that are important to them. The prospect of
23 a massive influx of transients as a result of pipeline
24 construction and related development means that these
25 changes must be made prior to authorization. Other-
26 wise the possibility of native control will be jeopar-
27 dized and the outcome of a land claims settlement
28 prejudiced.
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1 We have some recommendations
2 here with regard to government. First, that there must
3 be a ten year residence requirement for voting in
4 local or territorial elections or plebiscites.

5 Two, the linking of significant
6 local responsibility to size and tax base must change,
7 because it inherently puts the places where native
8 people choose to live at disadvantages, at a
9 disadvantage. The criteria for assuming increasing
10 responsibilities for their own affairs must be set
11 by the communities themselves.

12 In Alaska the mechanism of
13 first class borough status has enabled the Inupiat
14 of the North Slope to achieve strong local government,
15 including taxation power and development within
16 their boundaries. The Inuvialuit want at least such
17 powers of control on development within their
18 communities and upon their lands. The control and
19 direction of local government councils by the
20 Territorial Government must cease. Local councils
21 must be free to deal with the issues they see as
22 important.

23 Three, regardless of the outcome
24 of a land claims settlement, some government agencies
25 and services will continue to perform the same functions
26 as they do today. Any project, such as a pipeline,
27 will place great demands on many of these agencies
28 and their services. Before the construction of a
29 gas pipeline, an independent assessment and evaluation
30 must be made of the relevant Federal and Territorial

Government departments and programs. With or without a pipeline, more money for these programs without an objective evaluation or their effectiveness will be futile.

This must not be simply another "in-house" assessment, which leaves out the original people. A major component of this review and evaluation of Federal and Territorial programs must be the degree of utilization by native people for their lack of it with these programs.

Now, in the next section we deal with the supporting services that are presently in place in the western Arctic, with their ability to deal with problems now and with the forecast of their ability to deal with them in the future.

The supporting service institutions and programs developed by the Federal and Territorial Governments show little evidence that original peoples were consulted or involved. Although Inuvialuit appreciate many of these services and programs, most are ineffective and inappropriate to meet their needs and solve their problems.

A basic right of Canadian citizens is to have some degree of influence and control over the institutions that serve them. Furthermore, input from those to whom services are provided makes it possible to design social programs so that they can most effectively meet the needs of the people. Original peoples in the North have never had this influence or control over institutions which serve them, and it

1 shows in the kind of institutions in the western Arctic
2 and of the success of social programs here.

3 Pipeline construction will bring
4 many outsiders and rapid social changes into the western
5 Arctic. This will intensify the current social, and
6 health problems of the original peoples and put further
7 pressures on government agencies which cannot handle
8 even the present problems.

9 Before pipeline construction
10 native people must have control of their own social
11 and health program and guaranteed funding to overcome
12 the current deficiencies in them. There must also
13 be enough time, if and when a pipeline is approved,
14 for Inuvialuit to develop their own social and health
15 programs at community and regional levels.

16 We will examine three questions
17 concerning health and social services and from these
18 will be developed COPE's recommendations. The questions
19 are as follows:

- 20 1) What is the current level of social or health
21 problem?
- 22 2) Are the presnt institutions or programs adequate
23 to meet the present level of problems?
- 24 3) What is the probable impact of pipeline construction
25 upon those problems and upon the services,
26 institutions and programs presently dealing with
27 them?

28 Despite many social and
29 technological changes in the recent history of the
30 western Arctic native people have not become southern

middle-class white people. Southern institutions imposed without regard for these cultural differences have failed in the past and will continue to fail unless they are based on the cultural values and perceptions of native people who live here. Nellie Cournoyea in evidence before you summed up the frustration of the original peoples, and she said:

"Each time we are asked for our knowledge, our opinion, we build up our expectations that influence will be seen in the final outcome. We have fed our knowledge and experience into government agencies over game laws, town structure, housing, education, business or whatever, hoping to see meaningful decisions and planning. You can search and search but nowhere in the final outcome can you ever find our contribution used for our benefit. It has only been because of concerted political pressure that a very few projects such as training and employment of native people has taken place".

COPE does not intend these recommendations to be more than just a place to begin. The applicants have tentatively chosen the location of their camps, access roads, wharves and facilities. They have told us of their general plans for the isolation from the communities of pipeline workers, employment and hiring of native northerners, the use of local services and facilities. The general plans, locations and policies may change. Therefore, after the Berger Inquiry is over, native people and their

organizations must be able to continue to negotiate with government and industry on specific terms and conditions.

Neither applicant has told us enough to permit detailed planning. The research into social impacts by government and industry has been cursory at best and has been designed to promote the development preferences. Finally, there are no guarantees of sufficient lead times.

Now, in health services we make the following recommendations:

- 1) COPE recommends that a task force be organized now to evaluate the present level in the Northwest Territories to identify specifically the current inadequacies, and to forecast potential development impacts upon medical services and the health of native peoples and others living in the western Arctic. This task force should study what has happened in Alaska, and should draw upon the Alaskan native health service experience in rural areas and the native non-profit corporations, and the health services in urban areas like Fairbanks, Anchorage and Valdez. This task force should be made up of representatives from medical services, the Department of National Health and Welfare, the Department of Social Development of the Territorial Government, and representatives of the native associations and communities in the area likely to experience the impacts. It might also include a hospital and university authorities

outside the Northwest Territories.

- 2) Original people must be involved in the delivery of health care services to their own communities and in the evaluation and institution of health care programs and facilities.
- 3) The Department of National Health and Welfare together with the native associations and the communities should establish local and regional advisory health boards. They should, within a set time period, take over the operation of health care services and facilities. Appropriate models include the Churchill Health Center, the James Bay Project, the Katen Health Center in Caughnawage, and the Alaska Native Non-Profit Corporations. Regional and local boards must be established and in operation before commencement of construction of a pipeline.
- 4) Original peoples must be recruited and trained in all levels of health care.
- 5) COPE recommends that local people have authority and control of health care services. At this time, COPE does not support the recommendation that health care services be transferred from the Department of National Health and Welfare to the Territorial Government. There is no evidence that the Territorial Government will be any more responsive to the needs and concerns of Inuvialuit than the Department of National Health and Welfare.
- 6) Because the existing health care facilities in the western Arctic are presently utilized to capacity

or over-utilized, we recommend that pipeline personnel, contractors and their employees do not use existing facilities unless and until their carrying capacities have been increased to meet present and projected future demands of the local population as well as the increased demands placed on facilities, personnel, and services by this project.

- 7) The costs of expanding services to meet the direct and indirect demands of pipeline construction must be borne by the applicants.
- 8) Medical examinations of pipeline workers should be carried out in southern hospitals except for those northern residents who are employed on the pipeline.
- 9) The capacity of the Tuktoyaktuk nursing station must be evaluated. Any plans to expand this nursing station must take into account not only the possible impacts on pipeline construction, but also of increasing and increased exploration and the construction of gas plants and ancillary facilities. Under no circumstances must the services extended to the residents of Tuktoyaktuk suffer or be curtailed.
- 10) An evaluation of the present nursing stations, and that's throughout the region, and their facilities and staff must be made to determine their present capacity and to forecast future needs.
- 11) The Community Health Aid Program must be expanded

1 and upgraded to ensure that at least one community
 2 health aid is working in each community. Continuing
 3 education must be provided for these people. The
 4 salaries of these people must be raised so that
 5 they are competitive with short-term jobs in
 6 pipeline construction and ongoing development.

7 12) The Department of National Health and Welfare
 8 must develop a trained interpreter corps immediately.
 9 Interpreters must be available in the Inuvik
 10 Hospital to provide interpretation into all the
 11 native languages used by the people in the region.
 12 We believe in most of the settlement nursing
 13 stations the community health worker could fill
 14 this role.

15 13) The Department of National Health and Welfare
 16 which has the responsibility to monitor the water
 17 supplies and the sewage effluent must ensure that
 18 they have adequate personnel prior to the
 19 commencement of pipeline construction. It is
 20 further recommended that before the pipeline
 21 construction Health and Welfare and the Territorial
 22 Government undertake an assessment of the adequacy
 23 of current services and the capacity to maintain
 24 these with the projected population increases.

25 Now, recommendations with
 26 regard to mental health. Good mental health has been
 27 linked to having control over one's own lives and one's
 28 own facilities. The prognosis is that the situation
 29 will deteriorate in the western Arctic if major
 30 development is to come to the Mackenzie region before

1 satisfactory land claim settlements have been worked
2 out with the Inuvialuit and the Dene. As a result of
3 that, we recommend the following:

- 4 1) That in addition to the general health recommendations
5 made above, a satisfactory land claim settlement
6 which would restore to original peoples control
7 over their lives and institutions is a basic
8 requirement to the mental health of all people
9 living in the Mackenzie region.
- 10 2) COPE recommends that a study be conducted of the
11 Alaskan system of native professional and para-
12 professional mental health care delivery systems
13 and the development of a similar scheme in
14 consultation with the communities which suits
15 the requirements of the Inuvialuit.

16 Alcohol. Alcohol continues
17 to be a problem for all people and a special problem
18 for Inuvialuit. The level of alcohol related problems
19 acts as a barometer of social and mental problems
20 among original peoples. We have heard evidence that
21 in the western Arctic there may just be a chance for
22 the people to control the abuse of alcohol if they are
23 given the time and the opportunity to do so prior to
24 major developments in the area.

25 In some communities, people
26 have begun to look to their own solutions to the alcohol
27 problems.

28
29
30

1 We recommend the following
2 four things:

3 (1) That more research be done not simply on alcohol
4 but on the incidence of alcohol problems on various
5 groups, races and cultures. Equally important is
6 research into alternative methods of prevention,
7 treatment and rehabilitation of alcoholics, which may
8 work better in treating native peoples.

9 (2) Inuvialuit must have the power and authority to
10 determine and implement their own alcohol policies
11 and programs. It is important that native people
12 retain this control not only in communities where they
13 hold a numerical majority, but in the larger
14 communities where they are not. This might be achieved
15 by long residency requirements to participate in
16 alcohol plebiscites. COPE recommends a ten-year
17 residency requirement.

18 (3) COPE supports the recommendation of the unions
19 with regard to the availability of alcohol in construction
20 camps.

21 (4) In all construction camps where native people
22 are employed, there must be available a native
23 alcohol counsellor who can communicate with employees
24 in their own languages and who has had training in
25 alcohol counselling. Training of native alcohol
26 counsellors should involve native associations and
27 communities.

28 Courts and the legal system.
29 There has been no evidence led on this subject, sir,
30 but on the last day we filed a brief that had been

1 presented to the Department of Justice by COPE.
2 Inuvialuit are not involved in a significant way in
3 the Courts and the legal system. Judges, lawyers and
4 police are almost all outsiders. Little time is
5 spent in the individual communities which often raises
6 problems in preparation and understanding. Evidence
7 from Alaska has indicated that big development has
8 a major impact on Courts and legal systems. Not only
9 will the needs of original peoples to understand and
10 have access to legal services increase, but the loads
11 on the personnel involved in these services will in-
12 crease greatly.

13 COPE shares some of the
14 concerns of the Association of Municipalities in the
15 impending need for increased law enforcement personnel.

16 As a result, COPE recommends
17 the following three things:

18 (1) A native legal worker program and community
19 legal centre must be funded and in operation prior to
20 the authorization of any pipeline construction.

21 (2) There must be an assessment of the correctional
22 facilities and programs in the Northwest Territories
23 and an evaluation of those facilities for the
24 treatment, punishment and rehabilitation of offenders
25 with alcohol problems.

26 (3) There must be a community by community assessment
27 of law enforcement needs in consultation with
28 Inuvialuit.

29 Education. Inuvialuit, young
30 and old, have repeatedly identified the school and

1 hostel system as the single most important factor
2 in the loss of language, culture, traditional skills
3 and values. Their evidence has been supported by
4 that of professionals.

5 As a result, we recommend
6 the following:

7 With or without a pipeline Inuvialuit must be
8 guaranteed control and direction of the educational
9 institutions and programs locally available to them.
10 They must have the means to direct and control their
11 own education system including curriculum and programs,
12 hiring and firing of teachers and staff, training and
13 in-service programs for all positions. If Inuvialuit
14 do not gain this control prior to the construction of
15 a Mackenzie Valley Pipeline, they will lose this
16 Opportunity forever. It is not intended that the
17 interests of non-native people should be ignored, but
18 native people must have both the means and control to
19 provide the education^{and training} that their people require.

20 (2) Community control over education must not con-
21 tinue to be linked to property taxes. This basis for
22 local control of education threatens to eliminate
23 any hope of native control over education in the
24 smaller settlements.

25 (3) Research and curriculum development must be
26 reoriented to the needs of original people.

27 (4) Education must include instruction in the languages
28 of original peoples. Language is inseparable from
29 culture, values and personal identity.

30 (5) Original peoples must have input into the content

1 of programming of radio and television in the
2 Northwest Territories.

3 Now, recreation. Yes sir?

4 THE COMMISSIONER: Recommendation 4, you haven't made yourself perfectly clear,
5 as the saying goes. Do you intend that the languages
6 of the original peoples be taught as subjects or that
7 they should in addition be the languages of instruction
8 in other subjects?
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10 MR. BAYLY: I think, sir,
11 that's something that the communities should decide
12 themselves. It may vary from community to community.

13 THE COMMISSIONER: Right.

14 MR. BAYLY: Now on the
15 subject of recreation. Northern recreation programs and
16 facilities have been developed without the involvement
17 of original peoples with the exception of the Northern
18 Games and TEST ski program. Both of these programs
19 were initiated at a community level and involved many
20 people of all ages and backgrounds. In comparison with
21 other sports complexes these sorts of projects are
22 underfunded.

23 Although the development of
24 community based and initiated recreational programs
25 and facilities cannot solve the problems of rapid social
26 and economic change which will accompany big development,
27 it can assist people in dealing with these impacts
28 and help to foster a sense of community. Again,
29 referring to Yvonne Allen Kisoun in Inuvik, she
30 stated the following:

1 "There was a limited amount of social and
2 recreational life when we returned home."

3 Referring to returning home from the hostels.

4 "The result, frustration and boredom, which
5 led to alcoholism, drugs, violence and death.
6 All this has been happening in the past 15
7 years."

8 COPE therefore recommends
9 that funding and technical assistance must be available
10 for native communities and associations to develop
11 their own recreational facilities and programs.
12 In Inuvik, where the population is predominantly non-
13 native, native associations must be guaranteed funding
14 for the recreational programs they have already
15 established and for the development of further
16 cultural and recreational programs which they have
17 been planning and which they may plan in the future.

18 Turning now to the manpower
19 delivery, COPE recommends that in consultation with
20 native associations and the communities that a means
21 be developed so that native people who possess skills
22 and wish to work on the pipeline and related facili-
23 ties can be certified objectively on the basis of
24 their skills and obtain union membership with a
25 minimum of complicated procedures.

26 (2) COPE supports the union recommendation about a
27 community information program to provide easily under-
28 standable materials about unions and how to obtain
29 membership. There must be a local employment officer
30 in each community thoroughly knowledgeable about

1 union membership requirements, the jobs available
2 on pipeline and ancillary facilities, and the skill
3 levels required.

4 (3) There must be a clear and swift grievance
5 procedure for all northern people who feel they have
6 not been classified in accordance with their skills
7 or who feel they are being discriminated against.
8 Original peoples must be members of any body which
9 discusses grievances.

10 (4) There must be a native counselling system
11 with native counsellors in each camp which would be
12 independent of unions, contractors, applicants and
13 government.

14 (5) COPE supports the recommendations of the unions
15 and the Gemini North panel that there should be a
16 single agency which deals with all aspects of pipeline
17 employment, recruitment, training and union membership
18 with strong powers of enforcement where unions,
19 contractors, pipeline companies or governments are
20 not living up to their responsibilities and to whatever
21 stipulations may be established for the construction
22 of northern pipeline or related facilities.

23 (6) COPE supports the recommendations of the union
24 that no hiring halls be established in the Northwest
25 Territories. No union residents and union members
26 from outside must only obtain pipeline employment
27 through established hiring halls in Edmonton and other
28 southern locations. Northwest Territories residents
29 must be able to remain in their own communities
30 until they actually have a job. COPE recognizes that

1 there may be problems with the customary 48-hour
2 dispatch limit for pipeline construction and recommends
3 that they continue to be consulted about this.

4 (7) COPE recommends that new members of unions be
5 able to pay union initiation fees and dues through
6 payroll deductions.

7 (8) COPE strongly recommends further discussions be-
8 tween unions, pipeline contrac tors, and native
9 organizations on the subject of work schedules. COPE
10 is not satisfied that pipeline employment schedules
11 must be those used in Alaska. Every effort must be
12 used in consultation with communities and native
13 associations to work out schedules which will accommo-
14 date local people as well as be efficient and economic
15 from the point of view of pipeline construction.

16 Now, on regional and community
17 planning. COPE is not opposed to realistic planning
18 and actively supports proper planning if it is done
19 in consultation with people in the communities and
20 through their various associations. So far the
21 Federal and Territorial Governments have failed to
22 adequately consult with the people and may be repeating
23 the same mistakes that have occurred in Alaska.
24 In the various assessments and planning efforts there
25 have been no objective assessment of either socio-
26 economic or environmental impacts by Federal or
27 Territorial Governments. The information given to
28 the communities has been misleading, inadequate, and
29 the planners have been perceived by people in the
30 communities as proponents of the development whose

1 job is merely to prepare the people for the impacts of
2 hydrocarbon development.

3 COPE agrees that there must
4 be adequate planning and impact assessment before
5 the construction of a pipeline and an energy corridor.

6 As a result, we recommend the
7 following:

8 (1) To begin with, there must be an in-depth analysis
9 of potential social and economic impacts of the
10 construction project. The proceedings of this Inquiry
11 which has enabled the various interest groups to do
12 their own assessments and to identify what each feels
13 is important is a good place to begin. From the
14 proceedings, exhibits, recommendations, terms and
15 conditions, an identification of some of the problems
16 and possible solutions will be found. This will not
17 provide a substitute for planning. Rather, we see it
18 as an effective tool.

19 (2) Inuvialuit in their communities and through their
20 associations must be involved in each stage of identi-
21 fication of impacts and the planning to meet those
22 impacts. Their involvement must not end with the end
23 of this Inquiry. Local communities and the regional
24 native associations must have the resources to parti-
25 cipate in the planning process. They must be able to
26 hire staff and to commission research when they feel
27 it is required, and must be able to travel and work
28 in the communities.

29 (3) Because the details of the proposed project have
30 not and perhaps cannot be outlined at this time by the

1 applicants, not only the native associations but the
2 people in the communities must continue to be consulted
3 about details on the possible impact upon their communities,
4 and upon their land. This consultation should follow
5 the model proposed in the community consultation sec-
6 tion of this document. It is only through this form
7 of consultation on the specifics of any project that
8 planning can be done which will not only satisfy the
9 planners but also meet the needs and desires of the
10 people in the communities.

11 (4) The regional and community planning process must
12 include the various options which may be open to or put
13 forward by the original peoples. It is not satisfactory
14 -- it is not a satisfactory technique of planning to
15 simply propose ways in which people can accommodate
16 to plans already made.

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1 Now, with regard to a
2 Regional Impact Information Centre, we recommend the
3 following:

4 COPE recommends that there be established a
5 Regional Impact Information Centre based on the model
6 of the Fairbanks Impact Information Centre. The
7 establishment of this centre should begin well in
8 advance of the pipeline construction. It is most
9 important to establish baseline data in many areas
10 prior to the startup of stockpiling and construction.

11 (2) COPE recommends the Regional Impact Information
12 Centre in the Mackenzie Delta area be established
13 at Tuktoyaktuk but that it be so funded and
14 staffed so that it is able to serve the outlying
15 communities in the COPE region. The lack of an
16 Impact Information Centre in outlying rural areas
17 was identified as a problem for both residents and
18 government in Alaska in order to establish accurate
19 information on the needs and the areas of strain on
20 human and community resources.

21 (3) The centre must be locally controlled with
22 representatives from all groups in the region includ-
23 ing the following: Native associations, government,
24 business, pipeline companies, the Chamber of Commerce,
25 the Association of Municipalities, the Mental Health
26 Association, and perhaps others. It must be free
27 of control either political or economic by any one
28 interest group.

29 Now on the subject of lead
30 times, and Arctic Gas mentioned that the native groups

1 had not suggested a lead time in a number of years.
2 I'll address myself to this and the reasons why not.
3 Sufficient lead time to settle land claims, to imple-
4 ment programs that are agreed upon, to select land,
5 to permit reviews of government policies and procedures,
6 to set up authorities, to build hospitals, to train
7 personnel and to expand services are requirements
8 not only of the native people but of government and
9 of industry. The Federal Government has allowed this
10 Inquiry to continue so that this part of the job can
11 be done right. But this is not the only thing that has
12 to be done before major development can be introduced
13 to the Western Arctic without having devastating
14 effects on the people and upon the environment.

15 Whether it is to settle land
16 claims or to set up a pipeline authority, people have
17 suggested lead times which vary from more than ten
18 years to a year to 18 months. COPE is unable to say
19 how many years are required. We have through this
20 document given a list of those things which Inuvialuit
21 feel must be done prior to the commencement of major
22 development in the COPE region. There may be others
23 which arise through negotiations of land claims,
24 review of government policies and services, setting
25 up of land use plans, authorities, etc.

26 The gas companies need lead
27 times as well. Recent revelations by Arctic Gas that
28 much of their frost heave experimentation must be
29 done again should give us all fair warning that
30 despite their good faith and good intentions they

1 have not solved all the problems. It is doubtful that
2 they have even discovered all the problems and their
3 implications.

4 Now, continuing on from
5 lead times, we suggested that there may be need for
6 legislation in some areas, and if this pipeline is
7 going to be built at all and if it's going to be
8 built right the government also needs lead times
9 to review its existing legislation, to draft and
10 pass any new legislation which may be required before
11 development can proceed. This COPE believes involves
12 procedures which might well take a number of years.
13 As we have stated elsewhere in this document, it
14 is not satisfactory to do a band-aid job on existing
15 legislation and existing authorities. It is not
16 adequate to govern this Territory or to police such
17 a mammoth project merely by adding regulations under
18 existing Statutes.

19 COPE therefore recommends
20 that a thorough review of existing legislation which
21 might affect land claims, land use planning, and the
22 pipeline carried out by Federal and Territorial
23 Governments in consultation with local and particularly
24 with original peoples to assess the present laws, to
25 evaluate and determine the requirements for any new
26 laws, and to draft and pass new legislation which is
27 thoughtful, complete and just.

28 Now, sir, that completes the
29 argument that we wish to address to you with the
30 exception of remarks I wish to address to the arguments

1 of some of the other participants. If you wish, it
2 might be an appropriate time to take a short break.

3 THE COMMISSIONER: All right,
4 we'll take a few moments.

5 (PROCEEDINGS ADJOURNED FOR A FEW MOMENTS)

6 (PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

7 MR. BAYLY: I have been asked
8 by Commission counsel to begin with my compliment of
9 them, and I will.

10 We have reviewed the argument
11 of Commission counsel or the document that they have
12 prepared and we extend our compliments to the Inquiry
13 staff for identifying the major and most of the minor
14 issues before the Inquiry.

15 We realize that the job was
16 a big one, and that their time was short, and no doubt
17 with more time they would have polished the work, and
18 in the words of my instructions from the COPE Board
19 of Directors, made it better and shorter.

20 Now we faced many of the same
21 problems that Commission counsel had, and no doubt
22 made some of the same mistakes, and perhaps others in
23 addition. While it is important to us and to our
24 clients that our mistakes be found and corrected,
25 we believe it is at least as important that those
26 problems that we see in Commission counsel's argument
27 be brought to your attention before you sit down and
28 with their assistance draft your report.

29 In a few days we will submit
30 to you a list of specific recommendations from the

1 Commission counsel argument which we believe are not
2 in the COPE I.T.C. interest; similarly to the fashion
3 that's been outlined by Mr. Genest.

4 Today I will address myself
5 to six problems which are fundamental and recurring
6 in the report.

7 We believe these are correct-
8 ible, but if they are not corrected, the advice given
9 to you may be flawed and misleading. These are --
10 and I'll list them first:

- 11 1. Sloppy thinking, which includes loose wording
12 and poorly thought-out recommendations.
- 13 2. Unsupported recommendations which includes those
14 unsupported by evidence or unsupportable on the referen-
15 ces given. In this we will discuss the ranking of
16 evidence.
- 17 3. Unsupportable recommendations
- 18 4. Unworkable recommendations
- 19 5. Inconsistencies within the document itself, which
20 includes (a) conflicting recommendations
21 (b) duplication. Perhaps we shouldn't be
22 talking about it because we do a lot of it ourselves.
23 (c) failing to follow up a point.
- 24 6. Land claims, and that involves comments on sorting
25 out the problems of arguing in the alternative.

26 Now, I'll give you some
27 examples of the sloppy thinking category, and I'll
28 refer to basic issues at page 5 and just let you know
29 what the questions are that I have on that.

30 There it states that the

1 authority would be created to cope with problems
2 that lie beyond the normal capabilities of various
3 levels of government, and it goes on to say that
4 the authority would thus be interposed between the
5 company and the Territory and other physical processes
6 of the impact region.

7 Now, we're confused by this
8 because we don't know what problems might lie beyond
9 the normal capabilities of government, what levels of
10 government, and what imposing an authority between
11 companies, government and other physical processes
12 mean.

13 Page 7,

14 "Existing government machinery in the Northwest
15 Territories to be examined to determine how
16 much of it is redundant."

17 Now we question how you do that. If it's an in-house
18 assessment, what is the criteria of "redundant"? And
19 in practical terms, how do you take what you find
20 redundant and have it converted to some purposeful
21 use to either coping with the pipeline or dismissing
22 staff or reassignment?

23 On page -- I beg your
24 pardon?

25 THE COMMISSIONER: This
26 comment, staff, where's that?

27 MR. BAYLY: That should
28 also come under the impractical recommendations,
29 or unworkable ones.

30 MR. HOLLINGWORTH: Unsupported

1 by history.

2 MR. BAYLY: Right.

3 On page 27 in the discussion
4 on native society, still on point 1, the report says:

5 "It is not easy to see ways in which entry to
6 these communities could be restricted without
7 establishing controls that might be profoundly
8 inconsistent with long-term objectives."

9 We question what this means and what those long-term
10 objectives are, and what kind of controls they are
11 referring to, and there doesn't seem to be any
12 relationship of that recommendation or that concern
13 with any evidence.

14 Now, on pages 25, 29 and
15 30, there are some evidence of duplication and
16 contradiction. On page 25 the report says that:

17 "The Territorial Government should upgrade
18 the collection of health care data,"

19 but on page 29 they say,

20 "Health and welfare should begin to collect
21 sound baseline data on health problems."

22 Now, again on native society
23 under the heading, "Renewable Resources," there's
24 an item called "Vulnerability Stress Level." Well,
25 we couldn't figure out what that was or how it might
26 be measured and there's no evidence that we have in
27 the Inquiry that suggests what it is or how you would
28 measure it.

29 Under the "Action Community"
30 section --

1 THE COMMISSIONER: It sounds
2 like one of those expressions that will find its
3 way into a sociological textbook before long.

4 MR. BAYLY: We have Peter
5 Usher working on that.

6 Under "Action Communities
7 Impact Information", page 8,

8 "One staff member should, if possible, be
9 recruited from the region,"

10 is the recommendation. Now to us that sounds like
11 a government hiring provision about which they
12 later apologize for because it wasn't possible.
13 Who decides what "if possible" means and on what
14 basis a staff member is recruited? We feel that is
15 just a very loosely worded recommendation and it's
16 open to being disregarded.

17 Now on housing,
18 "Transients should be discouraged from
19 going to smaller centres."

20 It doesn't say how, and suppose they aren't, what
21 way of enforcing this recommendation is there?

22 Now, in "Industrial Develop-
23 ment" the report states -- this is page 69:

24 "Great care not to interfere beyond the point
25 of absolute necessity must be taken."

26 We feel that that's the kind of recommendation we
27 were concerned about in the applicants' applica-
28 tions. It doesn't tell you anything very much. It
29 doesn't tell you what "absolute necessity" is, or
30 what kind of interference.

1 On the subject of regional
2 economic planning there's a statement that says:

3 "There must be followup public discussion."
4 It doesn't say who defines "public discussion" and
5 who decides when it has taken place. The loose
6 wordings provide no effective guarantee, and merely
7 support our contention that control must lie with
8 native people.

9 Now, on northern business,
10 there's another problem of loose wording that I'd
11 just like to refer to. Recommendation 2,

12 "On the establishment of a developm ent
13 corporation, government personnel and
14 government people."

15 What is the relationship of this corporation to
16 native people? It isn't disclosed.

17 Evidently the Commission
18 staff was thinking of something else for native business
19 because they go on to say that,

20 "The corporation wouldn't hae jurisdiction
21 in areas encompassed by land claims settlement."

22 On page 18 they continue on
23 the topic of native entrepreneurship and mention
24 native corporations, which are regionally or community
25 based. We're concerned here that they may be talking
26 about the Nunavut proposal which is not before you,
27 and in fact is not before the Government of Canada.

28 THE COMMISSIONER: The proposal
29 for an economic development corporation for the north
30 was, I think, first put forward by the Carrothers

Commission, more than a decade ago.

MR. BAYLY: I realize that, sir.

It's just that --

THE COMMISSIONER: Oh no, I understand your point. Don't worry, I've got it.

MR. BAYLY: Now, in this sloppy thinking category we put an item called inadequate -- yes?

THE COMMISSIONER: Is this still category 1?

MR. BAYLY: Yes.

MR. SCOTT: I wish Mr. Bayly could be induced to call it "category 1".

MR. BAYLY: We've got an item called "Inadequate Reference". Now, in the section on native society and wildlife management we notice there's no reference or discussion of the hunting rights brief, Exhibit 687, which was submitted. We feel that that should be referred to in the discussion, whether it's supported or dismissed.

Now, there are references in this section to Mr. Beakhust and Mr. Longlitz, but they spoke of land management, not of wildlife management, and no other references are given, as I say, on this section.

Now we go onto recommendations that are unsupported by the evidence.

Now, on the subject of country foods, regarding the inadequate documentation of harvest by the Government of the Northwest Territories

1 data collection, the only evidence I gather we have
2 from this is from Peter Usher, and he says that the
3 Northwest Territories statistics were not designed
4 to do this documentation, so they could hardly be
5 blamed for not doing it.

6 You cannot reasonably expect
7 to devise a system which would provide accurate
8 totals on a regional and territory-wide basis of
9 actual harvest, and the disposition of country food.
10 The best we can hope for is to use the existing
11 systems and make proper estimates of the error
12 factor. This data, in other words, just doesn't exist.
13 So we wonder what the basis in evidence is for this
14 recommendation.

15 Now on the subject of stability
16 and growth in local government, there's an idea that
17 the physical authority should be based on wealth
18 embodied in the land in the zone of influence. Maybe
19 this is a good idea but nobody raised it in evidence.
20 Should solutions be bandied about that are very
21 tentative and have never been discussed and tested
22 with anyone? Maybe they should, but that's a question
23 we have about it.

24 Now, again on unsupported
25 recommendations, on page 5 of "Native Society" a
26 statement was made that,

27 "A major characteristic of native society
28 is the degree to which it is highly adapt-
29 able."

30 Now we were unable to find any references and the

1 definition of "adaptability". How do you measure
2 it? We've heard evidence that this is the area
3 with the second-highest per capita alcohol consumption
4 in Canada and we wonder whether that's a way to
5 measure adaptability?
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1 Now, on the subject of action
2 communities again an unsupported recommendation. The
3 impact information is discussed and a statement is made
4 that the kind of information collected and disseminated
5 should be a matter of judgment of the professional
6 staff. Later on at page 12 they say:

7 "Costs to the impact information center should
8 be borne by the company. Staff of each impact
9 information center established by an advisory
10 community within the community, and that each
11 impact information center should concern itself
12 with social variables and processes, et cetera".

13 Now, the evidence we had on the
14 impact information center came from Mim Dixon. Now,
15 she didn't say these things. This isn't a model of
16 the Fairbanks Information Center. We wonder what
17 evidence is relied upon or what thinking goes into
18 the basic changes that are made in the concept. This
19 didn't come out in cross-examination either, as we
20 understand.

21 Now on alcohol there's a
22 recommendation, number 6, in which it is recommended
23 that a large rehabilitation center should be established
24 similar to Poundmaker or Henwood. Now, there's no
25 evidence that such centers are effective, and the only
26 evidence on those centers came from Sam Raddi and Don
27 Bruce who said that Henwood hadn't been very successful
28 with native people. There are no reports filed that
29 suggest support for this particular idea either.

30 Again on unsupported recommendations,

1 page 48 of Employment and Training. An employment
2 advisory and counselling program should be established
3 by the owner, through the contractor, to provide
4 support and assistance primarily to native workers
5 in construction camps. We don't know where that
6 recommendation came from. It's not what the union
7 said.

8 THE COMMISSIONER: Excuse me,
9 would you repeat that. What was that one?

10 MR. BAYLY: It said that an
11 employment advisory and counselling program should be
12 established by the owner, which I presume is the
13 pipeline company, through his contractor, to provide
14 support and assistance primarily to native workers
15 in construction camps.

16 Now, the evidence lead by
17 Commission counsel from the union people and particularly
18 the representative of the Labourer's Union said an
19 independent counselling system was best. As I say,
20 there doesn't seem to be any other evidence that this
21 particular recommendation is based on.

22 Now, on page 60 again on
23 Employment and Training. The applicants have indicated
24 that they will permit a more flexible rotation period
25 for northerners. That's fine, but the evidence that
26 Commission counsel lead from the union people and the
27 Pipeline Advisory Council and the Gemini North Study
28 that was lead by them as well is that the contractors
29 and unions are the people that decide on the rotation
30 schedule.

1 Again, maybe their recommendation
2 is a good one but it has not met the evidence which
3 has been lead before you, sir. On the subject of
4 environmental indexes and this is again an unsupported
5 recommendation. Now, this section of argument rests
6 rather weakly on a comment made by Dr. Wilimovsky in
7 cross-examination by Mr. Scott. Basically the nine
8 pages of this section in the argument suggest that a
9 single number be established to measure the quality
10 of the environment and the quality of life.

11 The references cited include
12 books and articles which have not been presented
13 as evidence in this Inquiry and they even include
14 personal communications from a Mr. H. Inhaber who
15 seems to be the government employee mostly familiar
16 with such work. Now, certainly we haven't heard of
17 him before this as being involved in this, nor was he
18 called as a witness.

19 Now, COPE is opposed both to
20 the methods of Commission counsel presenting these
21 data and to the concept of an externally derived
22 environmental index. There has been no opportunity
23 to test either the idea of environmental indexes
24 or the proposed methodology in cross-examination. Other
25 scientists may have ideas which counter those of
26 Inhaber, and to borrow a bit of this method that has
27 been used by Commission counsel in this one, in
28 conversation with Lorraine Allison of the COPE staff,
29 Dr. Geist disagreed with this particular theory.

30 In other words, this thing could

1 go on forever with everybody gathering personal opinion.
2 Now, we have heard a lot in this Inquiry about how
3 native views of life and their values may differ from
4 those of southern Canadians and it's for this reason
5 that we feel this environmental index is something which
6 may be very important, and if it was something that they
7 wanted to put forward, they ought to have lead the
8 evidence.

9 Now, with regard to referencing,
10 the entire section on environmental indexes
11 is essentially unsupported by the evidence before the
12 Inquiry. We recognize that you need not be restricted
13 in your report to evidence which has been presented
14 before you. However, throughout the Commission counsel
15 report, extensive use has been made of reports and
16 documents which are not exhibits before this Inquiry,
17 and personal communications. None of these things are
18 available for the testing, either by applicants or
19 by participants.

20 Now, out of that arises a
21 suggestion that we have to you, sir, when you're writing
22 your report, and we suggest you consider the information
23 before you in a weighted manner. First, and of most
24 importance, as you have said yourself, should be the
25 evidence before you in the community hearings.

26 Second should be the formal
27 evidence which has been lead and tested in cross-
28 examination.

29 Third, you should consider the
30 exhibits.

Fourth, you should consider published documents which have not been presented to the Inquiry. And lightest in weight should come information relayed to you by personal communications or private correspondence.

Now, under the heading, "Unsupportable recommendations". As I said, those are the ones that may be--they may be good recommendations but they're not supported by the evidence. These are ones we feel are not supportable at all.

THE COMMISSIONER: Excuse me, Mr. Bayly. So there will be no misunderstanding, what I said about the evidence given by the people at the community hearings was that so far as this Inquiry was concerned with making a determination of the state of native goals, native preferences and native aspirations, the best evidence was what the native peoples themselves had told me at the community hearings.

Now, that's as far as I went.

MR. BAYLY: We recognize that sir. We're not suggesting that the evidence of someone who is not an engineer in the field who has given evidence in the Toronto community hearings, for example, be weighted over that of Dr. Clark's. That's not our intention to restrict or to suggest that you restrict yourself in that way.

Now, in unsupportable recommendations, in the section under native society, on wildlife management, all the recommendations appear to COPE to be scientifically unsupportable, because the

1 basic thesis is that wildlife resources be managed
2 on a community by community basis. Now, no wildlife
3 manager could support such a recommendation. Resources
4 must be managed on a population basis, and a given
5 population such as the Porcupine caribou herd, for
6 example, may at some time of the year use lands far
7 removed from a community which depends upon this
8 resource.

9 All the recommendations in this
10 section suffer the same deficiency. Now, possibly
11 in this case the people in charge with writing socio-
12 economic terms and conditions did not seek the advise
13 of the environmental experts who are also seconded
14 to your staff. This may be a factor related to the
15 time that Commission counsel had to put the report
16 together. As I say, we're trying to suggest these in
17 a spirit of cooperative criticism.

18 THE COMMISSIONER: I'm sure Mr.
19 Scott and the staff are receiving them in that same
20 spirit.

21 MR. BAYLY: They look awfully glum
22 sir.

23 MR. SCOTT: We asked for them
24 and we're glad to have them. I might just interject
25 in fairness to those who've participated in preparing
26 these that so far, and I know Mr. Bayly isn't finished
27 with his list, he's commented primarily on recommendations
28 that we've made that arose out of phase four evidence,
29 and as he will recognize, the preparation of those
30 recommendations had to begin before all the evidence was

1 in and there has been a particular problem in preparing
2 phase four recommendations that has perhaps lead to some
3 of the matters that he's quite justly raised.

4 MR. BAYLY: We understand that
5 sir.

6 MR. SCOTT: We plead guilty with
7 explanation with respect to some of them.

8 MR. BAYLY: I recommend a light
9 sentence, sir.

10 MR. SCOTT: How about a
11 conditional discharge?

12 MR. BAYLY: You'll never get
13 that, not until this is over.

14 Now, the reason that we feel
15 this recommendation is unsupportable is because we
16 looked at that problem ourselves and in consultation
17 with biologists and with wildlife managers, we put
18 forward a recommendation that populations be managed--
19 I'm sorry, that populations be managed rather than the
20 wildlife resources be managed on a community by community
21 basis.

22 Now, another one that we felt
23 we unsupportable refers to stability and growth and
24 specifically to regional wage levels and indexing of
25 incomes. Now, both these recommendations deal with the
26 problem of inflation and there has been much assertion
27 about inflation and there's been very little evidence.

28 THE COMMISSIONER: Will you
29 excuse me a moment. The last point you made; I don't
30 know what conduced the staff to make that recommendation.

1 No doubt they had what seemed to be appropriate grounds.
2 One of the arguments that virtually all the native
3 people have brought before me and I think all the
4 native organizations is that the native people in
5 some fashions should play a very large part in the
6 management of wildlife resources.

7 If that can only be done on a
8 population basis, which on the face of it seems
9 logical, then that may have some implications which you
10 might and Dr. Usher and the COPE Board might bear in
11 mind in regard to the whole question of regional
12 native organizations themselves. On what level ought
13 there to be a contribution made? I hope it's understood
14 that all the words I'm choosing are neutral words.
15 What level ought there to be a contribution made by
16 native people in the management of those populations,
17 the Porcupine caribou herd being a good example, and
18 once you've determined that, what implications does
19 that hold with respect to the form that native control
20 of their own lives might take.

21 We have heard from native
22 organizations the argument that they--

23 MR. BAYLY: Sorry.

24 THE COMMISSIONER: It's all right.
25 That's a technique Mr. Steeves uses in cross-examination.

26 MR. BAYLY: That wasn't the inter-
27 tion, sir.

28

29

30

1 THE COMMISSIONER: Let me
2 put it this way.

3 MR. BAYLY: I wanted to make sure
4 I knew what you were talking about.

5 THE COMMISSIONER: Virtually
6 all of the -- well, it will be on the transcript.
7 I'm not asking you to respond now, but in your written
8 submissions you might reflect on this.

9 The native organizations
10 have urged that they should have a measure of self-
11 determination. Now, if one of the elements of self-
12 determination is a measure of control over the manage-
13 ment of wildlife, if that can only be done on a
14 population by population footing, what implications
15 does that have so far as the form of native institu-
16 tions to control their own lives is concerned?
17 That's all I'm getting at, and I'm using words, that
18 as I say are, I hope, neutral words, but that is
19 a matter that has been raised in community after
20 Community. The staff obviously has sought to grapple
21 with it.

22 You've pointed out what
23 appears to be weakness in their reasoning. I'm saying
24 to you and COPE, "All right, in your written submis-
25 sions you tell me how you would go about it."

26 MR. BAYLY: We'll do that,
27 sir. I think the longer version of our recommendations
28 we refer to the problems and possible involvement
29 at international, national and local levels; but
30 without suggesting a form. We may not be able to do

1 that in writing to you, but we will address ourselves
2 to it again.

3 THE COMMISSIONER: O.K., sorry,
4 carry on. I think we were in the midst of category 3
5 and working swiftly to lunch.

6 MR. BAYLY: I think we're
7 just about finished "Unworkables", sir.

8 What I was saying about
9 inflation was that there's been a lot of concern
10 expressed about it, but very little in the way of
11 solutions presented in evidence, or possible
12 solutions. Now, the solutions that were offered by
13 Commission counsel were never offered in evidence
14 and were never tested in cross-examination or in
15 consultation with anybody, research or resource people.

16 Now, we realize the intention
17 is to protect northern people and northern native
18 people. But what we're concerned with is that this
19 may be a recommendation to the problem that the whole
20 country is trying to grapple with. What do you do
21 with inflation? If they can't solve it in Ottawa, it
22 seems to us it may be fatuous to just plug in a
23 solution because you feel you have to have one, and
24 it raises a problem with Commission counsel's recommen-
25 dations which I think they should recognize and may
26 already have done so, that they may have tried to
27 answer unanswerable questions. All they may be able
28 to do in some areas is to address themselves to
29 problems and say that solutions must be found.

30 THE COMMISSIONER: It may be

1 appropriate in some instances to say, "Let's not
2 kid ourselves, there are no solutions."

3 MR. BAYLY: Correct.

4 THE COMMISSIONER: And that
5 is something that the Inquiry must be prepared to do
6 in appropriate circumstances.

7 MR. BAYLY: I agree, sir, and
8 we've heard evidence from various people that there
9 are costs of development. They can be mitigated, they
10 can be lessened, but they can't be wished away.

11 THE COMMISSIONER: And another
12 program, another set of offices established in Ottawa
13 or Yellowknife, another group of public servants doing
14 their best to grapple with the problem may not in
15 some instances make any difference at all.

16 MR. BAYLY: Correct.

17 THE COMMISSIONER: And if that
18 is the conclusion that the Inquiry must reach in
19 certain instances, then so be it.

20 MR. BAYLY: I'll go on then,
21 sir, to inconsistencies and recommendations which may
22 conflict with one another.

23 Now, in the land claim
24 section there is a concern expressed throughout about
25 the lack of influence of native people politically
26 and upon institutions in the Territories, and yet
27 the recommendations leave it up to the government to
28 determine how to be responsive to native people.
29 That doesn't appear to be the kind of things people
30 were talking about in the communities when they

1 discussed what their land claims should involve.

2 THE COMMISSIONER: What did
3 they say, the staff?

4 MR. BAYLY: The complaint of
5 the staff, or the concern was there is a lack of
6 influence politically of native people in the
7 Western Arctic, and upon the institutions that serve
8 them. But the recommendation in some areas of the
9 report leave it to the government to determine how
10 to be responsive to native people.

11 Now that doesn't deal with the
12 evidence of people wanting to take control over various
13 aspects of their life. Whether it's rejected or not,
14 we submit that it should be dealt with.

15 Now, there is as well a
16 generality on the establishment of Advisory Committees,
17 authorities, local Medical Advisory Boards, and we
18 feel that these recommendations in the land claims
19 section may conflict with the other things they have
20 recommended in that section.

21 Now in the first section as
22 well -- turn just to another example of this -- an
23 agency is referred to right at the beginning of the
24 report. Now, whether that agency is meant to be the
25 authority or whether it just sort of disappears
26 we weren't able to find out, but as I say, an agency
27 was described and said it would be referred to later;
28 it disappeared. That appears to be the kind of thing
29 that can be --

30 MR. SCOTT: You'll find it

1 at page 1 of the recommendations that deal with
2 socio-economic conditions.

3 MR. BAYLY: No.

4 MR. SCOTT: I may have the
5 page wrong.

6 MR. BAYLY: There seems to
7 be a discrepancy, sir, between authority and agency.
8 Maybe they're the same thing but if they are, why don't
9 they say so?

10 MR. SCOTT: They aren't
11 necessarily the same thing. As the introduction
12 makes clear, the socio-economic recommendations were
13 predicated on the existence of the agency that is
14 described. Whether that becomes the authority is
15 the question left to be dealt with. In preparing
16 those recommendations it was felt necessary to speak
17 of the agency in those terms and I think at the very
18 beginning it's discussed. I can't put my hand on it
19 right now.

20 MR. BAYLY: Well, perhaps we
21 could just recommend that it be made clearer and
22 better.

23 THE COMMISSIONER: I think
24 Mr. Scott's made a note of that.

25 MR. BAYLY: Now, the last
26 subject is on land claims, and two cases are made.
27 First that a land claims settlement be implemented
28 which transfers control of certain things to native
29 people and guarantees their survival as they wish it
30 within the Canadian nation. Now, secondly, the

1 land claims argument that addresses itself to the
2 area of land claims says that if there is no land
3 claims or if there is a staged or phased land claim
4 certain things must be done to guarantee the survival
5 of native peoples and the things that they hold as
6 valuable.

7 We found in reading the
8 report that these two cases are intertwined and our
9 recommendation there would be to look at it very
10 carefully and see whether really Commission counsel
11 is putting an argument in the alternative for your
12 consideration, and if they are, to separate those
13 out so that they can be more easily understood, because
14 I think that's an important issue before you and should
15 be made as clear for you as possible.

16 THE COMMISSIONER: It's
17 certainly an important issue. They have -- would
18 you mind restating your objection to their treatment
19 of land claims?

20 MR. BAYLY: There are two
21 ideas put forward in the report, one in the land
22 claims section and one in the general introduction
23 and throughout the socio-economic portion of the
24 report. One is basically,

25 "Settle land claims and give native people
26 control over things so that they can run
27 their own lives."

28 The other is:

29 "If a land claims settlement doesn't come
30 before major development, there would have

1 to be certain guarantees made to native
2 people so that they aren't completely lost."

3 THE COMMISSIONER: Stopping
4 there, I take it you don't object to their dealing
5 with the two cases in that way.

6 MR. BAYLY: No sir, I don't
7 object to that at all. I'm just saying that we were
8 confused by it and projecting ourselves into your
9 position, if that advice is given to you we're just
10 suggesting that they separate the cases out in their
11 own mines before presenting them because they're two
12 very different situations and should be dealt with
13 as such, in our opinion.

14 Now, let me emphasize again
15 and strongly, sir, that this criticism of Commission
16 counsel's recommendations is meant to be helpful to
17 you. We want to improve their ability to advise you
18 clearly and thoughtfully when you request their
19 assistance.

20 Now, I've reminded you
21 earlier that your own statements say that where the
22 effects on native people are concerned, that the
23 evidence heard in the communities is the most important
24 and it must rank in that area in importance above the
25 other evidence, because it's the voice of the people
26 in the Mackenzie Valley and the delta region who
27 will reap the rewards and the sorrows of whatever
28 happens. Let me say clearly that the Inuvialuit have
29 a vested interest in the quality and completeness of
30 your report, and it's for that reason that we

1 address these criticisms to the Commission counsel's
2 submission.

3 Now we know that you face
4 time pressures that are imposed by others upon you,
5 and by you upon your staff. We submit that you should
6 resist the temptation to sacrifice in any way the
7 quality of the report or the delivery of your report
8 by any prearranged date.

9 You have said that the people
10 of Canada must take the time to come to an informed
11 decision. We submit, sir, so must you. The report has
12 to be the best. Inuvialuit are convinced it can be
13 and their future may depend upon it.

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1 If a few poorly thought out
2 recommendations give detractors a chance to dismiss
3 the report as misguided or shallow or contradictory
4 or wrong and the past two years of work may gather
5 dust on the shelves. It's in this spirit of concern
6 and helpfulness that we have criticized this work.

7 Now, if I may now turn perhaps
8 a less charitable eye in the arguments of Arctic Gas.
9 On March 3, 1975 this applicant appeared through Mr.
10 Genest with a proposal to build a pipeline which would
11 not only supply gas to southern markets but would also
12 cure the social and economic ills of the Mackenzie
13 District.

14 On November 15, 1976 Mr. Genest
15 returned after nineteen months of evidence had been
16 heard from hundreds of witnesses with virtually the
17 same argument in his briefcase. I believe this
18 Inquiry, if that is the case, has taught Arctic Gas
19 very little and that saddens and distresses me. Arctic
20 Gas appears to have treated the final argument as a
21 sort of high school debate and they've marshalled
22 evidence in support of their case and ignored that which
23 is not helpful or in conflict with their original
24 position.

25 I will illustrate this with
26 three examples. First, at page 31646 of Volume 200,
27 Mr. Genest stressed the importance of your having
28 a true assessment of the state of northern society. He
29 then painted a picture for you of a native population
30 in sore need of jobs, in desperate poverty, and largely

1 unsuited to pursuing resource based activities, renewable
2 resource based activities.

3 He stated at page 31650 that the
4 evidence, and I quote:

5 "Is clear beyond argument that renewable resource
6 oriented economy and the small scale activities...",
7 which he refers to, and I'm in closed quotes here,
8 "...can't provide enough jobs for native people".

9 Now, Arctic Gas called no evidence
10 on the capacity of the renewable resource base to
11 support native people, and Mr. Genest in making this
12 statement to you, sir, ignored the evidence called from
13 Mr. Snowden, Mr. Currie, and Dr. Usher. Now, putting
14 aside which theory is correct, Arctic Gas, we submit,
15 failed to grapple with the evidence and failed the
16 Inquiry by saying that the evidence was clear beyond
17 argument.

18 In this same area, the Arctic
19 Gas argument proposes the theory that when jobs are
20 available, transfer payments go down. Their own witness,
21 Dr. Hobart, refuted that in Volume 113 of the transcript
22 at page 17234, in discussing his Coppermine study and
23 the Gulf employment program. He admitted that the
24 program was accompanied by an almost three-fold increase
25 in transfer payments, which could only be explained in
26 his words,

27 "By problems in the area which had snowballed or
28 which had built up, which they had to respond
29 to in terms of increasing welfare payments".

30 Now, Arctic Gas failed to deal

1 with this important discrepancy. Again, in the same
2 area, he is speaking of the demeaning option of life
3 on transfer payments. They did not mention the option
4 referred to at Volume 198 of the transcript in your
5 discussion with Mr. Gates at page 31320 and following,
6 in which it was discussed the possibility of getting
7 the same kind of support that this country gives to
8 wheat farmers or fishermen or university students, to
9 subsistent hunters and trappers and elevating thus
10 these occupations in the public eye to acknowledgement
11 of their value to the country.

12 Now, sir, it may be clever
13 advocacy to select only those bits of evidence which
14 support one's thesis, but it is, in my opinion, an
15 abdication of the responsibility of the applicant to
16 help develop a true picture of northern society, to be
17 unwilling to face the contrary evidence or to bring
18 it to light.

19 Sir, the second example involves
20 the map which was produced and is on the wall. It is
21 by Mr. Marshall in support of the cross-delta route.
22 Now, this map overlays the traplines and travel routes
23 of the Dene of Inuvik and Aklavik and the traplines
24 of the Inuvialuit of the same settlements. It is
25 introduced to support the claim of Canadian Arctic
26 Gas that the socio-economic effects of the cross-delta
27 route are less severe than the circum-delta route.

28 The map does not include the
29 traplines of the people of Tuktoyaktuk. We've placed
30 that map on the wall for you. It's the one behind the

1 man with the camera. Now, these people also use the
2 area of the cross-delta route. The COPE maps were
3 produced in sufficient number that Canadian Arctic
4 Gas had a copy of this series. Moreover, this series
5 also includes a map which shows the areas where people
6 hunt and fish. That's contained on the same map
7 series.

8 Now, although that information
9 was available, none of it appears on the Canadian
10 Arctic Gas map; that is the one that they have produced.
11 The Canadian Arctic Gas map overlays only as far west
12 as the center of Shallow Bay and if you have a chance
13 to go and look at that map, sir, you'll notice in the
14 center of Shallow Bay the corner of the 1 and 250,000
15 series maps has marked on there.

16 It's doesn't go any further west
17 than that, although that information was available.
18 But the COPE map series includes the Yukon coast and
19 Canadian Arctic Gas representatives were in Aklavik,
20 in Inuvik, in Tuktoyaktuk, where the people gave
21 evidence of extensive land use in the area of the cross-
22 delta route; verbal evidence and evidence that they
23 supported with their use of this map series.

24 No mention of that was made in
25 the Canadian Arctic Gas argument. Nothing appears on
26 the map that they have produced. Now, had all that
27 information been put together a true picture of the
28 potential conflict between the cross-delta and
29 traditional use might have been shown. As it is the
30 Canadian Arctic Gas map may not show anything which

1 contributes to the true picture of native society and
2 land use and may be quite misleading.

3 Three, in referring to in-
4 migration, Mr. Genest at page 31679 refers only to
5 pipeline workers. He says at that page:

6 "It is unrealistic to expect that the addition
7 of some white pipeline workers will bring about
8 a change in population which would cause the
9 community of Inuvik to have any concern".

10 He makes no mention of in-migration of people to serve
11 the pipeline and communities despite the fact that
12 Mr. Trusty, his own witness, acknowledges that there
13 will be a significant influx and only debated the
14 multiplier.

15 Perhaps Mr. Genest is unaware
16 of that evidence. Mr. Commissioner, I suggest that you
17 cannot discharge the onus described by Mr. Genest by
18 avoiding the evidence. Canadian Arctic Gas cannot put
19 itself forward as a responsible citizen interested
20 in the solution to problems in an area it may be
21 instrumental in changing if it shows itself unwilling
22 or unable to deal totally with the evidence before you.

23 I don't suggest they have to
24 agree with what we've produced, sir, but I submit that
25 they must address it.

26 Now, turning just to another
27 suggestion of Arctic Gas, and we'd like to have the
28 opportunity to write to them and to you about certain
29 of their recommendations that have been put forward
30 that we may not agree with, and the reasons why, but

1 Arctic Gas has suggested that there should be a single
2 agency and we agree with that. We agree with them that
3 it should have both the expertise and the talent to
4 undertake the job of regulating the Mackenzie Valley
5 Pipeline.

6 Now, they have suggested the
7 National Energy Board and we're concerned with that and
8 the reason we're concerned is that in some areas where
9 the National Energy Board has this jurisdiction, they
10 aren't as strong and tough about things as we'd like
11 them to be. Now, we've heard that in Manitoba in a
12 disagreement between the National Energy Board and
13 Manitoba Hydro that the National Energy Board directed
14 the Manitoba Hydro to change its route for a transmission
15 line that they were building.

16 Now, Manitoba Hydro refused and
17 after allowing a period of time for the National Energy
18 Board to change its mind, went ahead with its original
19 plans. Now, we understand that the National Energy
20 Board rather than enforcing its ruling did nothing, and
21 we're concerned that this kind of action, if that is
22 what we have to expect from them as a single agency in
23 charge of policing the pipeline. If they can show they
24 can do it better, we might consider it but those are
25 the concerns we have.

26 Now, Mr. Commissioner, after all
27 these perhaps angry sounding words, I'd like to be a
28 little more agreeable and thank all counsel who have
29 been involved in this Inquiry for being so generous and
30 open in their discussions and disagreements and ability

1 to get on with one another. As I say, despite the
2 criticisms I may have of the arguments and of the
3 terms and conditions the people may have, I have the
4 greatest respect and have been very pleased to be
5 involved with all the lawyers that have been involved
6 in this Inquiry.

7 I want to thank you, sir, on
8 behalf of my client because in the words of Nellie
9 Cournoyea:

10 "The Berger Inquiry, as we understand it, is of
11 major importance to the Inuit of the western
12 Arctic. It is supported by the native people
13 and they have trust and faith in the process.
14 This Inquiry is considered unique in the history
15 of government intervention in the North. It is
16 supported for many reasons and some are difficult
17 to express, for the first time this Inquiry sets
18 out a legal forum to finally bring together the
19 past and the present as it relates to the future
20 survival of the Inuvialuit in the face of massive
21 petroleum development.
22 We approve of this Inquiry's terms of reference
23 to hear evidence not only of the actual gas
24 pipeline proposals but also to listen to the
25 evidence as it relates to the location of gas
26 fields and on offshore drilling and the gas
27 processing plants. These broad terms of
28 reference seem, to native people, to be reasonable
29 since they will have to live with the end
30 product in its entirety and not just a pipeline".

1 And in thanking you, sir, I'd
2 like to use the words of Mrs. Carmichael because
3 I think they're appropriate. She said:

4 "When you were in Aklavik..",
5 and you may recall this,

6 "...I want to thank you for coming and making
7 it available for everyone to speak. There are
8 so many different people here and everyone spoke
9 and we were glad and I want to thank you for
10 coming. I want to thank you and your staff
11 for coming before us. I know you are leaving
12 and I want to say good luck and God bless you
13 wherever you go in your work".

14 And thank you very much.

15 THE COMMISSIONER: Thank you.

16 MR. SCOTT: Shall we adjourn
17 until after lunch, Mr. Commissioner.

18 THE COMMISSIONER: Yes, until
19 when? Two?

20 MR. SCOTT: Two o'clock.

21 THE COMMISSIONER: All right,
22 we stand adjourned until two.

23 (PROCEEDINGS ADJOURNED UNTIL 2:00 P.M.)
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1 (PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

2 THE COMMISSIONER: Are we
3 ready?

4 MR. SCOTT: Mr. Sigler, any
5 time you're ready, please.

6 MR. SIGLER: To start with,
7 that
8 I'd draw to your attention the Association has filed
9 with the Commission a copy of its summary of recommen-
10 dations containing some 87 specific recommendations
11 relating to the areas of concern to the municipal
12 level of government in the Northwest Territories.
13 I don't propose to go through each and every one of
14 those recommendations here today. I do propose to
15 take about a half-hour to an hour and highlight some
16 of the main concerns of the Association in its
17 involvement in this Inquiry.

18 In March of 1975 on the
19 opening day of these formal hearings in Inuvik, I
20 expressed to you the Association's basis of and con-
21 cerns in participation at the Inquiry. Basically,
22 sir, these were twofold:

23 (1) as a level of government, the Municipal Councils
24 in certain impact communities in the Mackenzie Valley
25 will have the direct responsibility and legal obliga-
26 tion of actually dealing with the social consequences
27 of a pipeline decision. Their interest is not an
28 academic one, it's a realistic one, as under the
29 present scheme of things, a system of local government
30 we have, these are the people and these are the
31 bodies that will have to deal with local concerns in

1 the larger communities of the region.

2 (2) As an elected level of government the Municipal
3 Councils are speaking on behalf of a large constituency
4 of public opinion within these communities, which con-
5 stituency has urged their councils time and time again
6 to make its feelings known to this Inquiry. In this
7 regard we are admittedly representing a different
8 and we suggest wider constituency than that of the
9 native organizations or the Chambers of Commerce, as
10 a northern based participant.

11 While we do not purport to
12 speak for the special interest of the native people
13 or for either for the native communities of the
14 Northwest Territories, we would remind you once again
15 that approximately 80% of the population of the valley
16 does live in incorporated municipalities and have
17 elected representatives who in turn have major input
18 into our Association.

19 Our first broad area of
20 concern is in the field of economic and political
21 development for the valley.

22 Although our constituency is
23 different than that of the organizations just mentioned,
24 we do share with these other northern-based participants
25 in these hearings concerns with the overriding issues
26 of economic and political development in the Mackenzie
27 Valley.

28 In reviewing the evidence that
29 has been given not only at the fourth phase of the
30 formal hearings here in Yellowknife, but also at the

community hearings, it becomes clear that all northern based participants together with all northern peoples have without exception expressed to you certain common concerns that you can draw from the evidence.

1. They as northerners want to become involved in the decisions that affect their communities and their region.

2. They are asking to gain acknowledgement as having a right to a degree of ownership and control in the resources of the region.

3. They seek a new political structure for the Northwest Territories, one in which control will shift from an appointed bureaucracy to the people themselves.

These are shared concerns, I submit, of all the northern participants that have appeared before you, and most of the individual northerners, and we urge you, sir, to convey these concerns to the Federal Government in your report, and are confident that you perhaps better than anyone else can now appreciate these aspirations. However, sir, and with respect, we submit that under the Inquiry's terms of reference, the Commissioner's function is not to go beyond the mere conveying of these aspirations to government. That is we submit that you have not been asked to resolve these aspirations, or to suggest new institutions, or new models of government or what form such institutions should take, but simply to report to the Government of Canada what the feeling is amongst northerners in the face of these concerns. The next step, in our submission, the fact of resolving

1 these concerns has not been delegated to this
2 Commission. This remains, after all is said and done,
3 a pipeline Inquiry and not a Carrothers-style
4 Commission set up to resolve the great political
5 issues facing the north.

6 Turning to the question of
7 development itself, this is, of course, an area where
8 all northerners are not united. In both the
9 community and formal hearings you have on many occasions
10 heard from those who are opposed to development in
11 their communities, and we realize that this has had
12 great weight connected with the Inquiry. At the same
13 time, though, and at this time we as a northern-based
14 participant, wish to remind you of two or three matters:

15 (1) That in the evidence you have also heard a
16 significant amount of northern opinion in favor of
17 development. Much of this evidence was in fact led
18 by the Association of Municipalities, and this evidence
19 did include, sir, the sworn testimony of all the mayors
20 of the larger impact communities, as well as the
21 Territorial councillors representing these communities
22 within the region. You have heard from Mayor Robertson,
23 Mayor Stewart, in a written submission, or Mayor
24 Stewart presently through Mr. Fogg in oral testimony
25 as well as from Mayor Henne. You've heard from
26 Territorial Councillors Butters, Nickerson, Lafferty,
27 as well as from Territorial Councillor Searle in
28 Yellowknife, and that there is a significant opinion in
29 favor of the proposed development.

30 We suggest once again that

1 the function of this Commission is not to resolve
2 the question of development or ^{no} development, because
3 that's not within the terms of reference. But rather
4 it has a duty in reporting to the Government of Canada
5 as to the social consequences of a pipeline decision
6 or an energy corridor to report the existence of
7 both bodies of northern opinion, not only one or the
8 other, and we are hopeful that in your approach you
9 will convey both feelings of opinion to the Government
10 of Canada and the different implications of the decision
11 with respect to both bodies of opinion.

12 The third matter of approach
13 which we'd like to suggest to you today is that in
14 attempting to report on the specific socio-economic
15 impacts projected, as well as the general concerns and
16 aspirations of ^{the} people in the valley, that you consider
17 seriously making a community by community approach
18 wherever possible. You will recall at your preliminary
19 hearings before these formal hearings or community
20 hearings started, the Association of Municipalities
21 amongst other northern groups urged that you, sir,
22 have hearings in different communities throughout the north.
23 This was one of the first arguments that was held
24 before you, where hearings would in fact be held.
25 It was urged that you conduct hearings not only in
26 Yellowknife or Whitehorse, but throughout the Mackenzie
27 Valley, and you, sir, in your preliminary rulings
28 agreed with that approach to the conduct of this hearing.

29 I suggest to you today that
30 it would be almost as much of a mistake to make uniform

1 conditions applicable to all communities in this
2 region, as it would to hold all formal hearings in
3 Yellowknife and not get out to the communities. So
4 you can appreciate now that the communities such as
5 Yellowknife, Hay River, or Inuvik, what conditions are
6 appropriate for them may be entirely inappropriate to
7 other communities such as Fort Good Hope or Old Crow,
8 and we'd ask you to bear this principle in mind when
9 considering any sweeping recommendations as to condi-
10 tions. We would also suggest that from the evidence
11 that the conditions that you arrive at on the community
12 basis should bear in mind that a pipeline may be
13 constructed in such a way as to avoid communities
14 that do not want or cannot cope with development, but
15 at the same time serve the interests of the larger
16 municipalities that both want development and feel
17 that they can cope with it.

18 That's what I wish to say
19 with regard to approach, which we urge you to follow,
20 sir. Some of the specific questions of concern
21 to the Association and to the Municipal Councils, firstly
22 the subject of resource royalties and taxation.

23 Having -- bearing in mind
24 what I have just said regarding the role of this
25 Commission on the issue of development, we have
26 attempted in our summary of recommendations to present
27 to you a case for sensible controlled development as
28 being the only type of development that's in the
29 interests of the people here. In that regard, first of
30 all while we adopt the submissions that you have heard

1 this week from Canadian Arctic Gas as to the potential
2 benefits which can accrue with a pipeline, we do
3 want controls on development still, and the main area
4 of control which we have suggested is that of
5 royalties accruing to the Territorial Government and
6 thus through to the people of the north.

7 As you have heard in evidence
8 from Mr. Dalby, Mr. Nickerson, Territorial Councillor
9 from Yellowknife, Mayor Henne, Mayor Robertson, Mayor
10 Stewart, and Territorial Councillor Butters, and many
11 others, we feel that resource development can provide
12 the means of achieving economic self-sufficiency for
13 the people of the Northwest Territories (as it has
14 to some extent for the people of Alaska). However,
15 to accomplish this we submit that a portion of
16 royalties from the resources must accrue directly and
17 unconditionally to the Territorial Government's general
18 revenue fund. This in turn would enable the funding
19 of Territorial and municipal services to all the
20 communities in the north.

21 To be more specific, we are
22 now suggesting to you that an equivalent of Alberta's
23 and also Alaska's, after the elections recently,
24 a Heritage Fund be established as suggested in the
25 Stanley Report that has been tendered as an exhibit
26 before you at page 106, titled:

27 "The Quality of Life Improvement Fund."

28 In that report at that page -- and I quote:

29 "It calls for revenues from a 3% royalty on
30 all non-renewable northern resources being

placed annually into this quality of
life improvement fund."

These funds would be utilized in two ways:

(1) Funds would be utilized to achieve a reduction in energy costs throughout the Northwest Territories to a level equal to the average energy cost reduction which is experienced by communities which can be economically supplied with natural gas, and as to those communities I'll comment further in a moment as to the gas supply to local communities.

(SUBMISSION BY MR. SIGLER FOR N.W.T. ASSOCIATION
OF MUNICIPALITIES MARKED EXHIBIT 897)

1 The second purpose of such a
2 fund would be to distribute through local governments
3 wherever possible and on a per capita basis, we suggest,
4 funds for the financing of projects or programs intended
5 to improve the quality of life in the North in
6 accordance with local perceptions of needs and
7 priorities. Once again, a community by a community
8 involvement and a community by community decision
9 making power in administering these funds, and that
10 these funds would not, in any way, be used to offset
11 any of the existing programs, but would provide an
12 additional resource of funds to the communities of
13 the Mackenzie Valley and generally throughout the
14 Northwest Territories as a direct benefit of resource
15 development.

16 In addition, in the area of
17 raising of revenues from the resource that's proposed
18 to be exported from the North, we suggest that the
19 evidence supports that the present municipal taxing
20 powers be retained with regards to any pipeline facili-
21 ties that are located within municipalities. It's
22 reassuring to hear from both applicants' submissions
23 that they acknowledged that they should have to pay
24 municipal taxes on their pipeline facilities..

25 We call, sir, for assessment
26 rates, however, to be--the assessment rate on pipeline
27 facilities to be increased and this was a suggestion
28 made in the evidence of Mr. Nickerson at these formal
29 hearings in Yellowknife. We also from Mr. Nickerson's
30 evidence are calling for a throughput tax that would

1 be collected and paid to the Territorial Government.
2 So the first direct benefit that should accrue to the
3 people of the North is a share in the royalties as
4 well as funds from taxation on the facilities. The
5 other manner in which we advocate that northerners
6 share and benefit from the resources is the way, of
7 course, of supplying gas to the communities. In that
8 regard, we just reiterate our call that as a condition
9 to building many northern pipeline , that there be a
10 requirement of supplying gas to communities that can
11 be economically serviced and which also are requesting
12 such a service. evidence

13 We refer of Mr. Dalby as to the
14 approach that is required at this time to follow through
15 and will be necessary to in fact implement such a
16 condition. We remind you that Mr. Dalby's evidence
17 was unchallenged by Arctic Gas and Foothills, in fact,
18 proposed servicing the same eleven communities that
19 the Association's witness, Mr. Dalby, concluded would
20 be economically serviced.

We also adopt, sir, in regard to the question of local gas supply what Commission counsel has submitted to you on this subject which is found on page 7 of the section dealing with action communities, with the one exception that we do not urge that N. C. P. C. be named as the distributor for natural gas. To the contrary, the only evidence you have with regard to Northern Canada Power Commission has been from northerners and it has been opposed to their operations. In evidence of that, of course, we did file

1 with you a copy of several submissions that have been
2 made to various levels of government and regulatory
3 agencies regarding N. C. P. C.'s operations of the
4 power distribution of wholesale supply in the North
5 to date.

6 So, we do not see any basis for
7 Mr. Scott or his staff having made that recommendation
8 to you. We, therefore, urge you sir to adopt the
9 resource and royalty sharing objectives into your report
10 as conditions attaching to any right-of-way. We reiterate
11 once again that as northerners, the municipal councils
12 and people for whom they^{speak} do not want development for
13 development sake alone, but rather see these pipeline
14 proposals as the means for northerners for perhaps the
15 first time sharing and benefiting from their own resources.

16 With these conditions in mind,
17 we cannot, therefore, adopt the suggestion of Mr. Scott's
18 or the staff of Mr. Scott calling for the moratorium
19 for ten to fifteen years. Our position is that the
20 moratorium first of all has in fact--that in fact
21 there's been a de facto moratorium on resource
22 development or pipeline development in the Northwest
23 Territories for approximately some six years now since
24 petroleum resources were first discovered around 1970
25 and certainly during the two and a half years since this
26 Inquiry was first established, there's been a moratorium.

27 In any event, we feel development
28 will have the benefits that we have set out with these
29 conditions of northerners sharing in the resource, and
30 in the royalties. Further, just on that point, just to

1 remind you once again that on the whole question of
2 moratorium, it's bordering dangerously close, we submit, to the
3 question of development or no development and I
4 reiterate we don't feel that this Inquiry has been
5 set up as the forum to decide that basic issue.

6 So, that we would urge you that
7 in that sense any recommendations of ten to fifteen
8 year moratoriums are in fact saying no development and
9 in fact, are not within the terms of reference of this
10 Inquiry. While the Association favors development,
11 we would mention, and no moratorium, sir, we should
12 mention that from the evidence it is clear that the
13 municipalities will require some further lead time in
14 order to implement fully their planning policy and to
15 obtain the required impact funding.

16 In this regard, we would ask
17 as a condition there be a required lead time of at least
18 one year from the time the approval is given until
19 any construction would start in the North. We feel
20 that during that one year, the municipalities would
21 have the opportunity and the capacity to implement
22 their plans that have been made and copies of all these
23 plans have, of course, been filed with you as exhibits,
24 so that you yourself can examine the state of planning
25 that exists in each of the municipalities that will be
26 affected.

27 Also, sir, during that one year
28 period, we're hopeful that there'll be an equitable
29 settlement of native claims as we agree that such a
30 settlement would be desirable prior to construction.

1 We do not, however, agree to such a settlement being a
2 precondition to development, as unfortunately development
3 may pass us by if the decision is not made within a
4 fixed time period. Further, and to perhaps use Mr.
5 Gibbs' words to be realistic, only with the promise
6 of development have the native land claims become a
7 reality, or closer to becoming a reality in the North.

8 I would also point out and adopt
9 that this would not be the first development proposed
10 for the North, that development for the North was first
11 proposed in a large scale by as early as 1956 by
12 Prime Minister Diefenbaker in his roads to resources
13 policy that the native peoples have proven to be
14 flexible and adaptable as development has encroached
15 and that we are confident that development can proceed
16 if it's absolutely necessary and that the native
17 people, through their organization, through their
18 spokesmen will be able to protect their interests.
19 They have certainly proven that to be more--proven that
20 to be the case with increasing effectiveness in recent
21 years and once again to be realistic that it's only been
22 with the promise of development that the true effective-
23 ness has been there. That's all I propose to say, sir,
24 with regard to the native land claims.

25 Fourthly, on the question of
26 impact funding to municipalities, this has been one
27 of the central themes of our evidence and I don't
28 propose to take you through our recommendations item
29 by item or community by community to show what impact
30 funding is necessary for which community. You have heard

1 the evidence that was given not only by members of the
2 municipal councils but also by Mr. Dusel in regards
3 to his Mackenzie Valley impact study that was done by
4 the Association of Municipalities indicating the total
5 impact cost that will accrue to the municipalities with
6 any development.

7 We submit that in our evidence
8 we have solidly established the need for extraordinary
9 funding on an unconditional basis to the municipalities.
10 For example to cite but one in the Town of Inuvik we've
11 shown that during the period of seven years some
12 \$33,000,000.00 would be required for impact funds alone,
13 and that similar figures exist for the other high impact
14 communities of the valley.

15 Today we'll only refer you to
16 our evidence once again and to pages 6 to 9 of our
17 summary of recommendations^{where} we have set out the main
18 areas of recommendations in the line of impact funding.
19 In that regard, as to the question of provision of
20 municipal services, you will have appreciated by now that
21 the municipalities in the Mackenzie Valley have
22 consciously made a decision to plan for development and
23 to provide additional municipal services, which is a
24 fundamentally different approach than has been taken
25 by some of the communities in Alaska, such as Fairbanks
26 which made a conscious decision as you've heard in
27 evidence, to the other extreme of not expanding the
28 services.

29 We suggest that many of the
30 negative impacts of the development in Alaska, at least

1 in the Fairbanks area, to which you've heard about several
2 times in evidence, where the direct result of that
3 decision taken by the municipality, and that to avoid
4 a similar negative impact within the Mackenzie Valley,
5 these impact funds must be made available unconditionally
6 and I refer ^{as} you to the evidence of people from
7 Fairbanks to the reasons for unconditional; unconditionally
8 to our municipalities so they can put in place the
9 infrastructure and the municipal services that will be
10 required and thus, will help avoid some of the adverse
11 human impact to the people that live in those
12 communities.

1 We are pleased to see that
2 Commission counsel in its submission adopted the
3 need for impact funding and called for the creation
4 of a special impact fund. However, in contrast to
5 Commission counsel, we do not see the applicant or
6 the pipeline company as being the source of the funding
7 for municipal purposes. To the contrary, and alluding
8 back to one of my earlier general statements, we see
9 resource royalties accruing to the Territorial Govern-
10 ment and thus to the municipalities being the source
11 of provision of additional impact funds.

12 We see then the resources
13 as the key, and not the company. We do not ask to be
14 tied to grants from the pipeline companies as
15 being the source for municipal funding. Also, with
16 respect to Commission counsel's suggested figure of
17 \$20 million, we do not see where this figure was
18 obtained from. As I stated, for Inuvik alone you've
19 heard evidence, undisputed, as a need for some \$32
20 million. Why \$20 million, we don't know. We suggest
21 that it's not in evidence, at least not in evidence
22 that was led by the Municipal Association.

23 Other areas in which we have
24 made recommendations, sir, and which are summarized
25 in the exhibit that has been filed with you, are in the
26 areas of planning, transients, transportation, housing,
27 recreation, and protection services. Once again, we
28 submit that our evidence in these areas was both
29 clear and unquestioned as being -- as those recommen-
30 dations being needed for the very survival, in many

1 cases, of the communities, especially with areas of
2 planning and certainly at least dealing with the quality
3 of life when we come to areas such as recreation and
4 protection services.

5 I wish now to comment
6 briefly by way of response to some of the submissions
7 that have been made by other participants. Firstly,
8 further with Commission counsel's submissions, under
9 the section, "Native land claims" on pages 9, 10 and 11,
10 it would appear that in talking about institutions of
11 local government, it would appear that a great deal of
12 weight has been placed on the evidence that was given
13 by Chief Cheezie and Mr. George Kurszewski with regard
14 to last year's municipal elections in Fort Smith. We
15 would remind you, sir, in considering this evidence and
16 also that there has been evidence to the contrary that
17 has been led by the Association, particularly the
18 evidence given by Richard -- by Dick Hill from Inuvik,
19 where in an appendix he in fact pointed out that almost
20 all councillors now serving on Municipal Councils in
21 the Northwest Territories had a long-term residence in
22 the north, and a very large majority had resided in the
23 north for over ten years, which was one criticism that
24 was aimed at the election process in Fort Smith.

25 As well, sir, in the evidence
26 of Mr. McDiarmid that was called at the fourth phase
27 formal hearings by -- on behalf of COPE it was stressed
28 by Mr. McDiarmid that the municipal form of local
29 government would never be forced on any community
30 against its will.

1 We would also remind the
2 Commission that the same basic voting procedure that
3 is used in municipal elections is also used in federal
4 and territorial elections in which native candidates
5 have had great success in recent years. Therefore I
6 suggest that in fairness it cannot be concluded from
7 the evidence given by Mr. Kurszewski and Chief Cheezie
8 that the municipal system as a whole is not working
9 simply because Mr. Kurszewski failed in his efforts to
10 elect his particular slate of councillors.

11 We submit that it is at least
12 as fair to conclude that these efforts themselves, the
13 ones by Mr. Kurszewski, were at fault rather than the
14 entire system; that there is other evidence that the
15 system is working.

16 We do, however, agree that
17 the municipal form of local government should be
18 upgraded and strengthened with greater involvement
19 from native members of communities being encouraged.

20 Further, the municipal model
21 should not be forced on communities not wanting to
22 adopt the same.

23 One of the most serious
24 concerns we have with the submissions made by Mr.
25 Scott's staff arises from his part dealing with
26 action communities once again at page 16 of that part,
27 where in recommending a committee to be established,
28 Mr. Scott goes on to say that:

29 "As an interim measure, the Minister not
30 allow the implementation of any major decision

1 taken by any local government unless he is
2 certain that there has been adequate input
3 by native residents of that particular
4 community."

5 This seems to be recommending
6 to you to adopt, sir, as a condition that no major
7 decision be allowed to be taken by any local government
8 but rather any such decisions would be forwarded onto
9 the Minister in Ottawa, who would have to O.K., make
10 all the local decisions.

11 Firstly, we suggest that
12 there's no basis in the evidence for such a sweeping
13 recommendation. To the contrary, I submit that all
14 the evidence you've heard from northerners has called
15 for greater political self-determination, not less.

16 So for Mr. Scott's staff to
17 suggest eliminating basically the form of local govern-
18 ment and delegating this power to the Minister is
19 contrary to all ^{the} submissions that you've heard, both
20 from the communities themselves and in these formal
21 hearings from the participants.

22 Secondly, as I mentioned at
23 the outset of my submissions, we take the position that
24 the determination of what institutions are to be
25 established and by what means are not the proper
26 subject matter of this Inquiry. Once again we suggest
27 the role of this Inquiry is to pass onto the Federal
28 Government its appreciation of the aspirations of
29 northerners, but we would suggest that it would be
30 inappropriate for you to go as far as Mr. Scott urges,

1 and suggest this specific means of meeting those
2 concerns.

3 Finally on this point I want
4 to reiterate another principle of approach I mentioned
5 earlier, and that is the community by community approach
6 being required. Also Mr. Scott did not even attempt
7 to define what a "major decision" would be, and we
8 therefore have great trouble in interpreting his
9 intentions.

10 THE COMMISSIONER: You would
11 put that in category 1, would you? Sloppy thinking?

12 MR. SIGLER: I think I might
13 put it in all categories, sir. It seems to fit them
14 all.

15 Another suggestion that came
16 from Commission counsel to you, and also from COPE
17 has been a suggestion that there be a change from the
18 tax base or assessment base as a criterion for local
19 government to some other basis for local government
20 institutions evolving. On that, sir, we agree that
21 there is a need for change but I submit the first
22 change can occur only if there is an alternative
23 source of municipal revenues i.e. resource revenue
24 once again. It all goes back to getting funds to the
25 people of the Territories from their own resources
26 who might therefore with resource revenue be able to
27 dictate our own basis for political evolution.

28 As stated by Mr. Dick Hill
29 once again in evidence responding to Mr. Scott's
30 cross-examination on this very point in Yellowknife,

1 as long as senior levels of government and thus the
2 people of Canada as a whole are paying for our
3 community services, these levels will wish to dictate
4 or control these funds. Until there is unconditional
5 sharing by communities in resources and royalties,
6 there is little realistic hope of obtaining meaningful
7 community control of the decision-making process itself.

8 With regard to the submissions
9 that have been made to you, sir, as to monitoring of
10 impact, impact centres, we agree with there being a
11 need for same. We would, as was done by counsel for
12 COPE, take exception to the recommendations that have
13 come to you from Commission counsel. WE would urge that
14 at least in the larger communities that such centres
15 be run by the municipality, who should receive extra-
16 ordinary funding for them. This, of course, is the
17 case that was done in Fairbanks. It was the municipality
18 of the borough itself that set up the impact centre and
19 was able to monitor it on a local basis.

20 Also, sir, from Mim Dixon's
21 evidence it's clear that there is a need for some
22 kind of a regional co-ordination of the impact centres,
23 and this should not be done by the municipalities but
24 through some other body. We suggest an existing body and
25 not the creation of a new one, however.

26 On a submission that has been
27 made to you on behalf of COPE, and we anticipate that
28 other native organizations will be urging you to do
29 likewise, to adopt -- to recommend the adoption of
30 a ten-year residency requirement for voting for the

1 purposes of elections, as a means of minimizing
2 social disruption during a development stage. IN
3 response, we submit once again that such matters are
4 beyond the scope of this Inquiry, that once again this
5 is not the Carrothers Commission, this is the Pipeline
6 Commission.

7 If you disagree, however, sir,
8 and are considering adopting that as a recommendation,
9 we submit to you that the suggestion of long-term
10 residency for voting is not as benign a suggestion as
11 its proponents might argue. That is that all residents
12 with ten years will be treated equally regardless of
13 ethnic origin, so it's not going to hurt anyone.

1 That may be so but that all
2 people with ten year residence will be treated equally.
3 We submit that the real inherent question when it comes
4 to these types of recommendations is whether or not
5 any or all southern Canadians will be encouraged to
6 come to the Northwest Territories and make this part
7 of Canada their home, as part of Canada.

8 We suggest that no Canadian
9 who chooses to do so to come here should have to face
10 becoming a second-class citizen as far as--becoming
11 disenfranchised for certain purposes or all purposes
12 or any purposes as a consequence of his decision to
13 move to another part of Canada. We suggest that's the
14 basic question that this type of recommendation should
15 be regarded with and it's not as simple as it has been
16 suggested to you. It has serious implications for the
17 future of the North.

18 Perhaps it's the same type of
19 issue that's going through Quebec right now as to the
20 rights of people who come to this part of Canada with
21 the different ethnic origin than a significant portion
22 of them who have a special interest that must be
23 preserved. The question is, how do you balance the
24 rights of all the people here? We repeat though that
25 this question in any event we don't feel is within the
26 terms of reference of this Inquiry.

27 On the submissions that have
28 been made regarding the creation of the authority or
29 other regulating bodies, we do support the creation of
30 a single regulating authority provided it's of limited

1 duration for the specific purposes of monitoring and
2 regulating the pipeline construction. We would ask,
3 however, that such an authority have representation from
4 the municipal level of government which is one of the
5 levels that now has some of the decision-making
6 authority.

7 Further, not directly on that
8 subject but general criticism which we'll aim at the
9 Commission counsel's report or a general comment, if not
10 a criticism, you mention that the municipalities are
11 opposed very strongly to the creation of an entirely
12 new level or levels of bureaucracy being created in
13 this region where they're not absolutely required.

14 One of the main things inherent
15 in our evidence and we believe the evidence of other
16 northern participants is the need for greater local
17 control. We are thus opposed to the creation of a great
18 number of new federal agencies and a new wave of
19 bureaucracy flooding the North, and if not careful in
20 implementing many of Commission counsel's recommendations,
21 all that would be achieved would be to have this new
22 level of appointed government. That's what we're
23 suggesting in your recommendations you recommend come
24 to an end in the North.

25 We, therefore, urge you to dis-
26 regard that approach to the people here of having that
27 decision-making power. If they're to have that power,
28 give it to them directly, don't appoint a whole new plethora
29 of civil servants to make our decisions for us.

30 With regards to the submissions

1 that have been made by COPE and the Inuit Tapirisat
2 of Canada briefly we should go on to mention that we
3 share COPE's basic philosophy of local communities
4 playing a larger role in the decision-making process in
5 such areas as planning, law enforcement and the use
6 of gravel pits.

7 One area we do take exception to
8 as a specific area is their suggestion that native
9 organizations or hunters and trappers associations be
10 given the final decision-making power on land use
11 permits. As a matter of principle, we feel that the
12 elected community councils should, if anybody locally
13 will be given the final power, it should be the elected
14 local council, and that these other bodies should have
15 input but as a consultative one only.

16 Hopefully that in the communities
17 where they represent a majority of the people, they
18 will have the majority interest on that council. We
19 agree on the approach becoming a local one, the final
20 issuance becoming a local matter, as we feel that it's
21 definitely an area of community influence even though
22 the land may be located outside of the community but
23 the issuing of a land use permit certainly affects the
24 community and all the people of the adjoining
25 communities, and that the communities should have--
26 should be given that decision-making power.

27 Turning to the submissions of
28 Canadian Arctic Gas, not really to the submissions in
29 this case but to the application, I just wish to remind
30 you of our opposition to the building of facilities

1 at Axe Point and refer you once again to the paper
2 that was presented, prepared by the Town of Hay River
3 and their consultants and presented by the association
4 in evidence as an exhibit.

5 We also would remind you in
6 considering that question at Axe Point of the 1972
7 pipeline guidelines and their wording, guideline number
8 7, and I'll quote that:

9 "In order to ensure that the social and economic
10 benefits outweigh the costs the applicant shall
11 make a conscious effort to contribute to the
12 social and economic development of the
13 Territories. This objective shall have particular
14 relevance regarding...",

15 and the first one listed is,

16 "...locating permanent infrastructure and
17 maintenance facilities so that their presence
18 will be to the benefit of communities".

19 You have heard from the
20 communities of Fort Simpson and Hay River regarding
21 your feeling towards Axe Point. They do not feel it
22 would be of benefit to them and we suggest that the
23 guidelines themselves were drawn in this way to prevent
24 such facilities being built if there's any likelihood
25 of there having a permanent presence after the
26 construction period.

27 With response to Mr. Gibbs'
28 submissions on behalf of Foothills, we feel we should
29 address his comments yesterday in view of our position
30 coming out in favor of development being a northern group.

In response, we just wish to state that we recognize that "a pipeline itself will not be the economic panacea for the North", to use Mr. Gibbs' words.

However, for those northerners for whom we speak, resource development generally and incentives for this development are felt to be the key, not only to political growth, but also to economic stability. The examples perhaps that are given by the Indian Brotherhood of the Northwest Territories and Metis Association of economic developments leading to political power locally at other areas of Canada perhaps emphasize the point that we're trying to make that political powers were given locally to various regions of this country only as the resources of this area were developed. The difference today is that we wish policies and conditions to be adopted but also to be mindful of the rights of the original inhabitants of the area, of the native people so they'll be protected and what happened to them in other areas of Canada does not happen here.

This, of course, was not a concern when major development was proposed in other areas of Canada. But with these protections, we still require some decisions for development or an atmosphere for development before there'll be any further growth in the Northwest Territories. So, while Mr. Gibbs may be correct that his pipeline or any pipeline will not be our economic panacea, perhaps it will lead to further development which we do see as our ultimate solution and key for future growth.

1 One other general comment I'd
2 like to make sir is that the Association was disappointed
3 in Commission counsel's submissions being made available
4 first in Ottawa and not in Yellowknife and gaining our
5 first impressions of these submissions from the media.

6 We hope that the Commission's
7 report itself will be made public and available in the
8 Northwest Territories at the same time as it is
9 released in the south.

10 MR. SCOTT: There weren't enough
11 shoelaces in Yellowknife, Mr. Sigler.

12 MR. SIGLER: That, sir, basically
13 completes what I wish to submit to you today on behalf
14 of the Association. Once again, we thank you for
15 providing the Association with the opportunity to
16 participate in this Inquiry during the fourth phase.
17 We see your role as being able to provide the
18 Government of Canada with the means of allowing pipeline
19 development to proceed for the benefit of all northerners.

20 We are hopeful and confident that
21 your recommendations will be practical and realistic
22 and will be aimed at improving the economic and social
23 conditions for the people who live and work in the
24 communities of the Mackenzie Valley, both today and in
25 the future.

26 THE COMMISSIONER: Thank you,
27 Mr. Sigler.

28 MR. SCOTT: Mr. Commissioner,
29 could we break for a few moments and then the Canadian
30 Arctic Resources Committee will make their submissions.

(PROCEEDINGS ADJOURNED FOR A FEW MINUTES)

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

MR. ANTHONY: Mr. Commissioner,

I have the pleasure of presenting the submissions and the recommendations of the Canadian Arctic Resources Committee. With me also is Dr. Thompson, the chairman of the Canadian Arctic Resources Committee. Dr. Thompson has been involved at various stages and in various phases of this Inquiry, as an advisor, as a witness, and it is probably fitting that in closing he also is here as counsel -- as my junior, of course.

Before proceeding, I would like to file as an exhibit two matters. First of all through funding available from this Inquiry to assist CARC and the native organizations and maintain contact and communication with other organizations in the south, the Northern Assessment Group was created and as part of their assistance to the participants they have prepared two volumes which brought together transcript references on key environmental issues, and I would ask that that material from the Northern Assessment Group be filed with this Inquiry as an exhibit.

Also just as a matter of record, I have prepared a list indicating the members of the Northern Assessment Group and consultants who were retained by them, and the members of the Canadian Arctic Resources Committee who have participated from time to time in the proceedings of this Inquiry, and I'd ask that that also be filed as a matter of record.

I must start by making the same request of the other participants, in that we be permitted to file supplementary detailed comments on the recommendations of Commission counsel and of other participants, and we would request permission to do that and I anticipate being in a position to file some detailed comments in the near future.

I will be making some more general comments on these submissions in the course of our presentation.

Our submission has been circulated to the participants, and is in basically three sections. The first section is the general submission and comments, and that will form the substance of our oral presentation today.

The second section contains specific terms, conditions and recommendations that we will urge upon this Inquiry. I may highlight a few of these in passing, but those are basically being submitted for your consideration. There are some 125 pages, and the recommendations are recorded under "Particular Species" to assist this Inquiry in appreciating the impact of a wide range of activities on particular environmental issues.

I will start, if I may, Mr. Commissioner, with a few comments on the onus and standard of proof.

It is submitted by the Canadian Arctic Resources Committee that the onus of proving that the proposal to build a Mackenzie Valley Gas Pipeline

1 can be successfully carried out within acceptable
2 impacts rests throughout on the proponents of the
3 scheme. The applicants must accept the responsibility
4 to demonstrate to this Inquiry, to the agencies of
5 government, and to the Canadian people that they can
6 construct the pipeline in a manner and within the
7 time frame they propose, and that they understand and can
8 control the environmental and socio-economic impacts
9 within acceptable limits. This obligation is clearly
10 suggested in the Government of Canada 1972 Pipeline
11 Guidelines. If the applicants cannot do this, they must
12 not be permitted to proceed.

13 I will pause here, if I may,
14 to cite one example of what I am attempting to demon-
15 strate here, Mr. Commissioner, because I think this
16 issue was passed over too lightly by Arctic Gas in
17 their submission to you, because I'm talking here not
18 only of the obligations of the guidelines, or obliga-
19 tions to adduce evidence, but I'm also submitting that
20 Arctic Gas must demonstrate to this Inquiry that the
21 environmental consequences of their actions are known,
22 or at least the range of their consequences are known,
23 and that they are acceptable.

24 I would draw an example which
25 I think will illustrate my concern and my suggestion
26 that they have not satisfied this onus. I will just
27 quote two short passages from the Arctic Gas submission
28 dealing with the question of whales in the Mackenzie
29 Delta, as a specific example. I refer to page E-47 of
30 the Arctic Gas submission where they state:

1 "It is suspected that calving may occur in
2 Shallow Bay, although no positive evidence
3 exists. The areas of concentration of the
4 whales is generally north of the pipeline
5 crossing, although they have on occasion
6 extended south of the crossing."

7 Dealing with the same issue
8 on page F-20 they state at the bottom there:

9 "There is no clear evidence that calving
10 takes place in Shallow Bay, but rather it
11 is an inference."

12 And they refer to Dr. Sergeant, who I suggest is a
13 fairly good source for an inference with respect to
14 whales, and in describing some of the disturbance
15 studies carried on by the Slaney group, they say on
16 page F-21:

17 "Consequently there is no evidence that
18 similar activities associated with the pipeline
19 crossing of Shallow Bay would cause a detrimental
20 impact to the whales."

21 And then they present the conclusion, that therefore
22 there is no significant impact and they can proceed
23 with the crossing.

24 Now my submission to you,
25 Mr. Commissioner, is that they have it all wrong.
26 It is Arctic Gas that must determine where the calving
27 ground is, and it is up to Arctic Gas to do the
28 disturbance studies before it concludes that the
29 activities will not have a detrimental impact. If they
30 have not done this, if they cannot do that, then they

1 should not be permitted to cross Shallow Bay. It
2 will not surprise you, therefore, Mr. Commissioner, that
3 in the section in our submission dealing with the
4 impact on the whales in the Mackenzie Delta we state
5 that the onus has not been satisfied by Arctic Gas
6 and that they should not be permitted to proceed with
7 their plans to cross Shallow Bay.

8 Nor should the standard of
9 proof required by this Inquiry merely be a balance of
10 convenience or even a balance of probability. In
11 many instances, the applicants are dealing with
12 crucial issues, in effect, issues of life and death.
13 The ability to safely construct a chilled buried gas
14 pipeline, the survival of the Porcupine caribou herd,
15 the environmental integrity of the Mackenzie Delta,
16 and the welfare of the residents of the Canadian north
17 are some of these issues. When considering the evidence
18 being presented by the applicants and others on these
19 vital issues, this Inquiry should apply a higher stan-
20 dard of proof. Demanding anything less could place in
21 jeopardy the survival of integral elements of the
22 Canadian heritage.

23 This Inquiry has had the
24 occasion to listen to evidence covering a wide spectrum
25 of probative value. You have heard evidence based on
26 sophisticated studies, scientific conjecture, and
27 personal experience. You have received hard data, both
28 at the formal hearings and at the community hearings,
29 and you have received the speculations and generalizations
30 of both experts and laymen. It is for you to decide

1 on the relative weight to be placed on the evidence
2 you have heard. We would submit, however, that in
3 many of the most important environmental issues before
4 you there are no recognized experts. CARC would urge
5 that this Inquiry in considering these issues pay
6 particular attention to the evidence of the residents
7 of the north, particularly the native people who have
8 learned to understand and live with the environment.
9 CARC has presented before this Inquiry a number of
10 eminent and qualified scientists who have spoken of
11 their studies and provided their recommendations.
12 Many of the recommendations submitted by CARC are based
13 on the evidence of these experts and of experts called
14 by other participants. However, to understand the
15 importance of the environment and of environment
16 protection, we would ask that this Inquiry also consider
17 and act upon the submissions and recommendations of
18 those who, from personal experience, can teach us about
19 this fragile land.

20 If the applicant is unable to
21 satisfy the onus placed upon it, then this Inquiry
22 should hold that the application is deficient. In some
23 situations the deficiencies shall be of such great
24 magnitude or cover such a wide range of issues that
25 this Inquiry should hold that there is insufficient
26 evidence to properly assess the impacts or make
27 appropriate recommendations. In those cases the Inquiry
28 should hold that the pipeline should be built, if at all,
29 only upon completion of the appropriate further
30 studies and a proper evaluation of those studies.

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DR. THOMPSON:

Mr. Commissioner, I'm going to present what we called an overview of the Mackenzie Valley Pipeline proposal. Since its establishment more than five years ago, the Canadian Arctic Resources Committee has been deeply concerned with these questions about developing northern petroleum and natural gas resources, and in particular about the pipeline, and in 1974 we held a conference in Ottawa that asked the question, "Gas from the Mackenzie Delta now or later?"

Many informed Canadians spoke at that conference and they argued for delaying the pipeline, on grounds such as that frontier gas was not then a priority, and that the financial, economic, social and environmental effects, many of which were then unknown, would clearly be softened by delay.

Now in comparing this overview we reread that conference report and we see that in the spring of 1974 there were many unknown elements about the impacts of a pipeline. Despite the unanimity with which those conference speakers advocated postponement, we withheld our judgment to this Inquiry. The issue was far too important to decide before all of the facts were known, and we, I think, participated throughout this Inquiry with that suspension of judgment.

But now at the conclusion of the hearing when I think all of the parties in this room, and you yourself, Mr. Commissioner, must be at a point of summing up two years' experience. What

1 we have to tell you is that we've made up our minds
2 and we have concluded that the Mackenzie Valley Gas
3 Pipeline is dead. It's dead because the project is
4 not -- the gas, the delta gas is not now needed in
5 Canada, because the project is too costly, because
6 its social and environmental impacts are intolerable,
7 and because there are alternatives which will better
8 serve this nation.

9 I suppose I might add that
10 particularly if the pipeline is conceived by Arctic
11 Gas, and on its timetable, that we consider to be
12 dead. We're not asking you, of course, to make such
13 findings because we know that your terms of reference
14 do not include recommending for or against the pipeline.
15 But the order-in-council does require you in your own
16 words to report on the social, economic and environmen-
17 tal impacts and that task has to be regarded as one of
18 assessing, evaluating tradeoffs. The important
19 question becomes whether acknowledged adverse social,
20 economic and environmental impacts are so serious
21 as to call in question the project itself.

22 The conclusion you reach will
23 very much depend on your evaluation of the need for
24 the pipeline, subconsciously if not consciously. In
25 our estimation the applicants have not shown the need,
26 at least to our satisfaction.

27 We say that the gas is not
28 needed in Southern Canada until late in the 1980s, and
29 may not be needed well into the 1990s, because the
30 expiry of the gas export contracts will enable Canadian

1 gas then being sold in United States markets to be
2 diverted to Canadian markets at that time.

3 Alternatives are available to
4 Canada to bridge any gap between the late 1980s should
5 shortages develop and the 1990s when the export
6 contracts terminate . An obvious one is for Canada to
7 negotiate a phasing out of the export contracts so
8 that some export gas can be diverted to Canadian markets
9 before 1990, in exchange for extended deliveries to the
10 United States beyond the expiry dates of the contract.
11 This tapering off of the export deliveries could be
12 designed to match increasing Canadian demand.

13 MR. GENEST: I hesitate to
14 interrupt so distinguished a counsel and witness and
15 authority as Dr. Thompson, but I have not addressed --
16 Arctic Gas has not addressed any remarks to you in
17 this respect because that is an issue that is squarely
18 before the National Energy Board. I don't know if
19 Dr. Thompson intends to go on for some time in this
20 direction, but it seems to me it would be of no help
21 to you in your directions. I don't know if I should be
22 compelled to try in our submissions in writing to you
23 to meet that case or not. It seems to me not to advance
24 the cause of this Commission in any respect.

25 I regret the interruption
26 but I felt I should point it out.

27 MR. SCOTT: I think, Mr.
28 Commissioner, as Dr. Thompson has transcribed it in
29 his report or his overview which is before us
30 as an exhibit; it's there and I take it Mr. Genest has

1 no objection to it being filed. It seems to me
2 respectfully that the Inquiry has ruled on this matter
3 when the evidence of Dr. Helliwell, which touches on
4 the same issues, was presented, and tendered and
5 objected to. That was ruled out by the Inquiry and
6 it appears to me that Dr. Thompson is touching on
7 some of the same issues.

8 But as the Canadian Arctic
9 Resources Committee has been funded to deal with the
10 environmental issues, I know that they are coming
11 up very quickly. Perhaps we can just proceed to hear
12 the views of CARC on those environmental issues.

13 DR. THOMPSON: Mr. Commissioner,
14 I can recall when this Inquiry commenced and Mr. Michael
15 Goldie opening the Inquiry stressing the great
16 need for this pipeline and I don't think that one would
17 have to search too far through the pages of the record
18 to find many instances where the applicants have made
19 it clear that they regard this to be an urgently needed
20 affair. I think that the final argument on behalf
21 of Gas Arctic particularly, while it's not directly
22 addressing these matters, ^{has} left no doubt that they're
23 impressing on you this great need for urgency for
24 this project.

25 Now, if --

26 THE COMMISSIONER: Excuse me,
27 Dr. Thompson. I propose to handle this in the usual
28 way. The matter is clearly one for the National
29 Energy Board to determine, and is not something upon
30 which the government has sought my opinion, nor indeed

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Arctic Gas to lengthen their forecast period of self-sufficiency are more deeply rooted than they seem to appreciate. These are trends towards increased southern supplies and increased -- decreased Canadian demand brought about by higher field prices and higher market prices.

As Dr. Wood of the M.I.T. study team on energy reported to the Calgary conference on government involvement in the energy industry, just a few weeks ago, that their data shows considerable elasticity in supply and demand for oil and gas. He stated that in his opinion the United States national security concerns about energy independence would be alleviated simply by pricing oil and gas at world levels, and we've already seen deliverability enhanced in both British Columbia and Alberta gas fields, as a result of higher producer prices. We have the experience of growth rates in demand for natural gas in Canada of less than 1% for the past two years, owing in part at least to higher prices.

The other factors that enable us to predict that Canada will be able to meet its natural gas needs late into the 1980s are the success attendant on the Federal Government's conservation program and the failure of our economy to recover as rapidly as hoped.

In any event, the nature of a shortfall in natural gas deliveries should be appreciated. It's presented in the media that a shortfall would be a catastrophe which would overshadow

1 all other calamities. IN fact, there's been a natural
2 gas shortage in the United States for the past three
3 years with some regions showing shortfalls as high
4 as 25%. Yet there is no evidence of any serious
5 discomfort or dislocation south of the border and
6 their economic performance has outstripped our own.

7 We're not advocating shortfalls,
8 but what we want to make plain is that in our view
9 there's no catastrophe threatened in Southern Canada
10 that can in any degree match the calamity that
11 threatens native peoples in the north if the pipeline
12 is proceeded with immediately.

13 Now, that sounds like a lot of
14 rhetoric and will simply go out these air vents in
15 this room, but when I talk about the calamity, I noticed
16 just a recent issue of "Native Press", came out a
17 week or two ago, and the heading is:

18 "Tuk Full of Booze."

19 Mr. Steen said,

20 "There's so much alcohol in Tuk it makes
21 him worry."

22 He said,

23 "75% of the people in Tuk work on Canmar's
24 6 ships. The problem, there's so much money
25 floating around Tuk after work the people
26 don't know what to do with it. When they
27 get paid,"

28 Mr. Steen said,

29 "some people charter a plane into Inuvik
30 and buy 12 to 24 cases of beer, and up to

Mr. Steen said he's thinking of starting a plebiscite. He said that before people started working at Canmar, they didn't have very much money. The money that they do have, they said, was spent on supplies for hunting and fishing on the land.

When I read that, and I think that we spent two years^{and} beyond that three or four more, talking about concerns in the north and learning how to deal with them, and I discover that what any sociology second year student could have predicted would happen is happening, I wonder just whether or not we are really learning anything. Certainly I think that it's not simply empty rhetoric or advocacy to say that there is a calamity threatening native people in the north and there is nothing in the nature of a calamity in the south that can measure it.

1 Later in our argument we will
2 show you our environmental impacts justify delaying
3 a Mackenzie Valley natural gas pipeline. You will hear
4 from other intervenors the reasons why delay will serve
5 the interests of a just settlement of native land
6 claims and of preserving the life and cultures of native
7 communities. Now, we wish to state our view that the
8 delay will provide advantages to the nation in both
9 an economic and political sense.

10 Arctic Gas has announced that it
11 cannot finance the pipeline without government subsidy.
12 This is another way of saying the project is not
13 economic at this time. Ordinarily one would expect those
14 in industry and finance to be opposed to a non-economic
15 project because they are usually the spokesmen for free
16 enterprise and they're against government intervention.
17 Yet now we hear them clamour for a project which requires
18 that government strengthen its control. Where is the
19 virtue in this aggregate of multinationals clinging
20 to the lifeboats of the Federal Government? Surely
21 the wise course is to wait until a project is economic
22 and can be financed on its own merits.

23 Canada has a multitude of capital
24 projects competing for scarce resources. Our economic
25 well-being will be served by ordering priorities
26 rigorously, and our political well-being will be served
27 by avoiding government intervention except where
28 absolutely necessary.

29 It is because we're taking this
30 view, that the pipeline is dead, that we've chosen to

1 address our arguments to longer range issues that face
2 Canadians in the North. In fact, we're filing our
3 detailed recommendations but somewhat with the rueful
4 awareness that they will serve merely as a curiosity
5 when ultimately a northern pipeline is built.

6 This is not to say that the
7 three years of this Inquiry have been a waste of time
8 and money. For this Inquiry has done more to open
9 a window in the North than any other event in
10 Canadian history. Those thousands of witnesses at
11 community hearings have had a political awakening and
12 their compatriots in the south have had their eyes opened
13 to the richness of the northern landscapes, peoples and
14 resources.

15 Much is expected, and you, Mr.
16 Commissioner, have had a lot to do with arousing those
17 expectations. Our summation is that the enormous
18 effect of this Inquiry would be wasted if those
19 expectations are not met in the report that you will
20 issue. You'll have to deal with appropriate terms and
21 conditions but we suggest that you'll regard this
22 exercise in hindsight as the least important part of
23 your effort. We challenge you to point the direction
24 for northern Canada.

25 This task requires that you define
26 where we started from. You have heard the history of
27 increasing contacts between native persons and
28 Europeans commencing with fur traders and whalers
29 and ending with explorationists seeking oil and minerals.
30 You've seen the villages and communities, and heard

1 the claims to aboriginal rights and cultural self-
2 determination. You have the measure of environmental
3 impacts in the three main geographical regions that
4 a pipeline would affect; the North Slope, the delta,
5 and the Mackenzie River Valley.

6 Documentation filed with this
7 Inquiry tells of the development of government in the
8 North and you can judge the extent to which it is
9 following the precedent of evolution from colonial
10 status to self-government established for the provinces
11 in the South.

12 Upon this biography of the North
13 you must impose the advent of the massive resource
14 developments of the last two decades. These develop-
15 ments have been characterized by monolithic coventuring
16 between industry and government which, however well
17 intentioned, can only be seen as conspiratorial by those
18 who believe that other values are equally as important
19 as rapid exploitation of natural resources. Some of
20 these values are the alternative uses that will be
21 prejudiced by the oil and gas fields and the
22 pipelines. Others are the less tangible ones of openness
23 and accountability in a democratic society.

24 We ask you to conclude that
25 we're at a turning point when clear choices must be made
26 between exploitation of resources now versus con-
27 servation for the future generations, between
28 developments that benefit northerners versus those that
29 benefit southern Canadians only, and between cultural
30 survival of native northerners versus self-government

1 ambitions for the non-natives.

2 In these key policy areas, we
3 make recommendations. Starting with natives and non-
4 natives. There are many unanswered questions about
5 native land claims. While we think many and probably
6 most Canadians are anxious to meet the proper claims
7 of native peoples, they are with little guidance as to
8 the nature of those claims and as to possible ways in
9 which a settlement can be achieved. With negotiations
10 in prospect, you, Mr. Commissioner, may be diffident
11 about speaking out. -But you have a unique opportunity
12 to understand the issues and you now have a unique
13 opportunity to educate your fellow Canadians.

14 Because without an understanding
15 on the part of the public, no negotiated settlement
16 will offer much promise of an abiding accommodation.
17 While conventional procedures would shroud negotiations
18 in secrecy, that practice seems highly questionable
19 when the nature of what is at stake is the future
20 cultural, political and legal relationships between
21 native and non-natives in the North, and all Canadians
22 must be privy to those deliberations. I think the
23 folly of secrecy in these negotiations has already been
24 exposed by the interruption of those negotiations taking
25 place in the Yukon.

26 What you, Mr. Commissioner, can
27 tell the Canadian public in your report is your
28 assessment of these questions:

- 29 1) Do native northerners have a sufficient under-
30 standing of the issues to say yes or no to a pipeline?

- 1 ii) Do they oppose the pipeline only until land claims
2 are settled, or do they oppose it because they
3 oppose the changes that development will bring?
- 4 iii) Are the views of peoples widely held through all
5 regions and all age groups or are there identi-
6 fiable groups within the native peoples in favor
7 of or opposed to the pipeline?
- 8 iv) Who speaks for the native northerners? Are the
9 native organizations being given a full opportunity
10 to represent native interests?
- 11 v) Are native peoples capable of dealing with a land
12 settlement now and if not, what kinds of social
13 and political developments must take place before
14 a settlement and when?
- 15 vi) Is there a set of interim measures that can be
16 taken to enable necessary land planning and
17 development to proceed while negotiations towards
18 settlement of land claims go forward?
- 19 vii) What are the philosophical, political and legal
20 justifications for the Dene and I should say
21 the COPE and Inuit claim to self-determination
22 as distinct from the purely legal claims to
23 aboriginal rights, and what are the possible
24 alternative outcomes of these differing approaches
25 to settlement?
- 26 viii) What kind of negotiating mechanisms are most
27 likely to expedite a proper settlement of land
28 claims having in mind that the negotiating process
29 established in the case of the Yukon natives seems
30 to have proven unworkable?

1 Present and future generations.
2 The subject of energy conservation has many dimensions
3 and, not surprisingly, I think has many meanings for
4 this Inquiry. First, it is now acknowledged to be the
5 cheapest means of meeting future energy requirements.
6 I just the other day read the report of
7 the Chairman of the Science Council of Canada and in
8 his annual report he puts forward the statement that
9 the addition of a thousand B.T.U.'s of new energy,
10 whatever source; nuclear, oil, natural gas, is in the
11 range of about \$20.00 capital expenditure.

12 You can save the same 1,000
13 B.T.U.'s for capital expenditure of about \$5.00, and
14 so what he's suggesting is that it's four times as
15 efficient to spend your money on conservation than it
16 is in developing new resource or new energy sources
17 such as natural gas.

18 The second aspect of energy
19 conservation must be assessed on a longer time scale.
20 So long as the consumption of oil and gas continues
21 at current rates, it is widely agreed that world supplies
22 of hydrocarbons will be approaching exhaustion in the
23 first quarter of the next century. One can assume that
24 changing technology will provide our children and
25 grandchildren with as rich an energy system as we
26 enjoy today, but that assumption has to be simply an
27 act of faith. A wiser, more generous course would be
28 to begin conserving hydrocarbons now. Seen in this
29 light, delaying the natural gas pipeline is a moral act,
30 even if it means some shortage of natural gas supplies

1 in the meantime.

2 But there's an even more
3 profound aspect of conservation. We refer to conser-
4 vation of species and of natural systems. If you
5 believe that our grandchildren and great grandchildren
6 have a right to the preservation in their natural
7 state of the caribou it's the last of the great grazing
8 herds in a natural state that once included the
9 buffalo of North America and the wildebeast of Africa.
10 If you believe that, then the pipeline link across the
11 North Slope of the Alaska and Yukon must not be built.
12 Nor can you be sure that the oil and gas field operations
13 in the delta and the Beaufort Sea will not ultimately
14 imperil natural systems on which, for example, the earth's
15 climatic balance depends.

16 To approve the pipeline on the
17 applicant's timetable is just to shrug off the interests
18 of future generations in service of a mindless
19 economic imperative that says that if you're forced to do
20 without an extra cubic foot of gas, that's the worst form
21 of mischief you can suffer.

22 Northerners and southerners.

23 As southerners, the members of C A R C have no
24 hesitation in asserting their right to be heard on these
25 issues. What we don't have a right to do is to impose
26 our needs in southern Canada for energy resources on
27 the North without taking into account northern needs and
28 aspirations. You have evidence before you as to the
29 regional, social and economic impacts and your report
30 should show the consensus about these broad questions of

1 northern attitudes to development.

2 Federal and Territorial
3 Governments. Ten years ago the Carrothers Commission
4 reported on the development of government in the
5 Northwest Territories. One of their recommendations
6 was that there should be a follow-up report within a
7 decade. It's a decade now. In many ways, this Inquiry
8 has been that follow-up. You have had an unparalleled
9 opportunity to observe government in action in the
10 North.

11 You are familiar with the
12 recommendations of Dr. Carrothers and his fellow
13 commissioners and you are aware of the important steps
14 that have been taken, such as the establishment of this
15 territorial capital of Yellowknife and the relocation
16 of many government services here and elsewhere in the
17 North and in the context of managing social, economic
18 and environmental impacts, your assessment of the
19 appropriateness and competence of government services
20 and operations could provide direction for the next
21 decade.

22 The issues are enormously far
23 reaching. Is the Territory ready for further major
24 steps towards self-government? What should they be?
25 Is a typical southern province a suitable model for the
26 Territory? Should natural resources and their
27 management be reserved for federal ownership and
28 control as in the case of the prairie provinces and
29 they're beginning to 1930? How are native land claims
30 and the claim to Dene self-determination to be stitched

1 into the fabric of government? How can a project like
2 a Mackenzie Valley natural gas pipeline be managed
3 efficiently so that social, economic and environmental
4 impacts are controlled and minimized with debilitating
5 local government institutions and dislocating
6 Territorial and Federal government services?

1 Or, as Mr. Sigler would put it,
2 inviting the hordes of new federal bureaucrats to seize the
3 north. How can resource management and land planning decisions
4 be made in the interim when permanent institutions are
5 evolving?

6 It would be easy to say that these
7 formidable questions transcend the Inquiry's mandate. But
8 that makes them no less the really important issues we face.
9 We urge you to see your mandate broadly, for no one is in a
10 better position to give guidance and direction.

11 Mr. Sigler argues that you should
12 report on these regional, social and political aspirations,
13 that you shouldn't make recommendations. Well, that's just
14 not consistent. We agree that these impacts and these aspira-
15 tions are within your terms of reference and that being the
16 case you have a mandate, you have a duty to make recommenda-
17 tions.

18 The citizen and the state. Above
19 all else, CÂRC stands for the idea that citizens in a free
20 society have the privilege and duty to become well-informed
21 about the nation's affairs, to make their views known, and to
22 call their political leaders to account. The system breaks
23 down, and democracy with it, if information is not readily
24 available, if opportunities to present viewpoints are not pro-
25 vided, if decisions are secret, and if the politicians lose
26 control over the bureaucracy. All of these deficiencies have
27 been acutely present in the north. Particularly since Canada
28 embarked on a series of major energy projects in the '70's,
29 government and industry have closed rank and used the claims
30 of scale and complexity to exclude the citizen and in our es-
timation to bypass Parliament.

Information, which is difficult
to come by at the best of times in the Canadian system, and
this has been an issue of national concern lately,

1 is even more restricted in the north where distances
2 are vast and remoteness impedes the normal distribution
3 of news through the media. The vestiges of colonial
4 government and the fledgling nature of local institutions
5 together with^a restricted flow of information means that
6 the opportunities to present viewpoints are extremely
7 limited. In the area of natural resources, which
8 presently lies outside the purview of the Territorial
9 Government, there is no opportunity for debate or
10 argument other than provided in Parliament, and Ottawa
11 is far away with only two sitting members. In any
12 event, most matters affecting natural resources are
13 provided for by regulations which do not even get before
14 Parliament in any debating forum. You've heard
15 evidence as to the opportunities in the Territorial
16 Council for debate about amendments to the land use
17 regulations, (Graham Beakhust), and you are aware that
18 the Northern Inland Waters Act is the one exception
19 where a Statute of Parliament calls for hearings to
20 be held in the Territory prior to the issue of a
21 water licence (McLeod), and these witnesses left no
22 doubt that in these isolated examples bureaucrats
23 seem reluctant to afford citizens a chance to be heard.

24 This closing of ranks by
25 government and industry has been documented in two
26 recent publications filed with the Inquiry. I refer
27 to Edgar Dosman's book, "The National Interest:
28 The Politics of Northern Development," and I refer to
29 the book by Dr. Pimlott, "Oil Under the Ice: Offshore
30 Drilling in the Canadian Arctic."

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1 recorded in history as one flash of brilliance and
2 light in an otherwise darkened landscape.

3 Surely one of the most
4 important recommendations you can provide, Mr.
5 Commissioner, is a formula for public participation
6 in future decision-making about natural resource
7 developments in the north. Alternative natural gas
8 pipelines will have to be considered. In time there
9 may be an application for an oil pipeline. Major
10 hydro-electric projects ^{are} on the drawing boards; highways
11 are planned to complete a transportation network; new
12 mines as large as Anvil or Pine Point are in the
13 portfolios of the major resource companies. All of
14 these justify impact assessment and public review as
15 much as any gas pipeline.

16 CARC opposes the environmental
17 impact assessment procedures now conducted by the
18 Federal Government as in the case of drilling for oil
19 in the Beaufort so long as they remain in-house and
20 without public participation.

21 The question simply put is
22 whether the north will slip back behind the bureaucratic
23 barricades or whether this Inquiry will be a landmark
24 for the future. This isn't to suggest that each resource
25 decision must be prefaced by the full paraphernalia
26 of this Inquiry. I'm sure you wouldn't want to have
27 to go through this many more times, sir. But its
28 essence should be defined, and you, Mr. Commissioner,
29 are in the most favored position to recommend how future
30 projects should be assessed as to their social,

1 economic and environmental impacts.

2 In our view the essential
3 elements of your Inquiry are the following:

4 . The detailed presentation of environmental and
5 social impact evidence and rigorous testing of that
6 evidence through cross-examination in formal hearings;

7 . The discovery process whereby parties, as well
8 as the government, were required to disclose and
9 produce studies and reports in their possession relative
10 to the Inquiry;

11 . The two-level feature of the Inquiry whereby in
12 addition to the formal hearings, there were informal
13 community hearings at which people could speak in their
14 own way and in their own languages;

15 . The communication of issues and the evidence to
16 the public through wide multi-lingual media coverage
17 and southern city hearings; and finally

18 . The support of third party appearances by native
19 organizations, northern municipalities and environmental
20 groups in the formal hearings so that rigorous examina-
21 tion of the issues could proceed.

22 We ask you to recommend to
23 the government that hearings including at least these
24 essential elements be convened to enquire into each
25 new major project proposed for northern Canada. In
26 particular, a Polar Gas Pipeline proposal must be
27 examined by an independent public inquiry, otherwise
28 you would have an obvious conflict of interest situation
29 because it's likely that the applicants for that
30 pipeline will include Crown corporations and if you

1 had a strictly in-house assessment, it would be a
2 typical incestuous type relationship. Such an
3 inquiry need not be as wide in scope or as lengthy in
4 duration as this Inquiry, because there will be the
5 findings and recommendations of this Inquiry to build
6 on.

7 In particular, an inquiry
8 into ~~the~~ environmental, social and economic impacts of
9 an Alaska Highway delivery system for Prudhoe Bay
10 natural gas can be conducted in substantially abridged
11 time because much of the evidence received by this
12 Inquiry will be relevant and need not be repeated.

13 It's been argued that these
14 public Inquiries are a waste of time and money. Minist-
15 ers and their departments abetted by industry will be
16 tempted to proceed without them, as has happened in
17 the case of drilling in the Beaufort Sea. We can only
18 repeat our warnings of the danger. Nothing is more
19 certain to produce alienation and apathy than giant
20 technological projects requiring large capital expendi-
21 tures and vast public and private bureaucracies.
22 Nearly 100 years ago Lord Bryce talked about the
23 fatalism of the multitude.

24 "The sense of insignificance of individual
25 effort, the belief that the affairs of men
26 are swayed by large forces whose movement
27 may be studied but cannot be swayed."

28 This fatalism could spell the end of Parliamentary
29 Government. You, Mr. Commissioner, once referred to the
30 prevalent view that says that a decision in this

F. R. G. B. C.

1 pipeline should only be made by the people in govern-
2 ment and in industry. They have the knowledge. They
3 have the facts. They have the experience. But your
4 Inquiry has put that proposition to the test, and I
5 think found it wanting. You've put other propositions
6 to the test and found there's still a vibrant political
7 life in this country. Your Inquiry has shown that if
8 you treat citizens as equals, and respect their
9 procedural concerns, they will respond in a positive
10 manner. The Inquiry has shown that if you give citizens
11 the time and the means to understand complex issues
12 they will not only participate but will add new dimen-
13 sions and new insights to bear on technological
14 and social problems.

15 In time, as populations
16 increase and as social and political institutions gain
17 strength in the north, there will develop more routine
18 systems for planning and authorizing land uses and
19 natural resource developments and we've heard pleas
20 today for the development of land planning institutions
21 in the north. These new systems will undoubtedly
22 build on the procedures that this Inquiry and later
23 inquiries adopt. So in our view the procedure
24 established in this Inquiry can provide a precedent
25 in many ways for the development of self-government
26 that will endure far into the future life of the
27 Territories.

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3 The Beaufort Sea and the Mackenzie
4 Delta experience. We're concerned, Mr. Commissioner,
5 lest your report should serve merely to obscure the real
6 issues facing Canadians. Should it deal only with the
7 pipeline, it would surely have that effect. The
8 opportunity would have been lost to prove that
9 Canadians have a more noble aspirations for the North
10 than merely exploit the resources, and a more abiding
11 faith in themselves than merely to leave policy to
12 government and industry.

13 These alternatives are, as it
14 were, waiting in the wings. When the Berger Inquiry
15 leaves centre stage, the model of cabinet approval
16 of drilling in the Beaufort is ready to take its
17 place. That model, characterized by haste, by secrecy,
18 and by a single minded exploitation method is fully
19 exposed in Dr. Pimlott's book, "Oil Under the Ice".

20 But there's even a risk that your
21 report will lend legitimacy to the Beaufort Sea
22 procedures. However tentatively, you have accepted
23 testimony as to the environmental risks and hazards
24 attendant on deep sea drilling, just as you have heard
25 witnesses on the environmental impact of production
26 facilities and gathering lines in the Mackenzie Delta.
27 Surely these were not merely exercises in public relations.
28 But we were disturbed in terms of Commission counsel's
29 submissions to this Inquiry that any reference and then
30 there was no reference to the Beaufort Sea drilling,

1 any reference to the delta on this subject was included
2 only in a socio-economic assessment under the heading
3 stability and growth. Unless your report deals with
4 the environmental impacts and the procedures by which
5 these projects have been approved, it will be taken
6 that they have a stamp of rectitude.

7 We recommend that you assess the
8 effectiveness of the research program that preceded the
9 commencement of drilling in the Beaufort Sea, that
10 you comment on the environmental assessment procedures
11 adopted for the Beaufort Sea and the Mackenzie Delta
12 and that you should suggest follow-up procedures that
13 will ensure ^{that} incidents like the recent blow-out at the
14 Dome-Hunt well will be openly investigated.

15 All of the relationships previously
16 discussed bear on the relationships between the
17 environment and industrial development. Until man can
18 govern himself, he's not likely to manage the environ-
19 ment well. Since government in the North is so
20 embryonic and tenuous, with major relationships undefined,
21 it is obviously wise to postpone industrial development
22 that can be predicted to have major adverse impacts.

23 In our opinion, the adverse
24 impacts of constructing a pipeline across the North
25 Slope of Alaska and the Yukon, and across the Mackenzie
26 Delta are so severe as to clearly outweigh any
27 advantages of such a routing. We will prepare our
28 detailed analysis of these. My senior counsel will
29 outline these adverse impacts shortly. In the meantime,
30 I wish to state our view that an alternative means of

1 delivering Prudhoe Bay natural gas to the United States
2 markets should be utilized.

3 There are also serious
4 environmental concerns about pipelining the Mackenzie
5 River Valley. Should an oil pipeline be accelerated
6 because of construction of a gas pipeline, there will
7 sooner be the hazard of major oil spills carried down
8 the river into the delta as well as all the impacts
9 identified with construction and related activities.
10 Cumulatively, these justify delaying approval of the
11 pipeline unless its need is conclusively demonstrated
12 as a national imperative now. We think this need is
13 not shown.

14 In any event, it's common sense
15 that alternatives be explored. We ask you, Mr.
16 Commissioner, to recommend that the alternative of a
17 natural gas delivery system to southern markets from
18 the Arctic Islands be fully investigated and publicly
19 reviewed alongside the Mackenzie Valley proposals.
20 Such a project might better meet Canada's energy and
21 economic priorities than the Mackenzie Valley Pipeline
22 even apart from consideration of the many adverse
23 social and environmental impacts. Should it be true,
24 as we believe, that the timetable for the Mackenzie
25 Valley proposals is really dictated by the needs of
26 United States customers for Prudhoe Bay gas, then that
27 gas can find its way south by one of the alternative
28 routes now before the United States regulatory
29 tribunals.

30 Thank you, Mr. Commissioner.

1 In view of the time-- Mr. Anthony will carry on.

2

3 THE COMMISSIONER: Thank you,
4 Dr. Thompson.

5 MR. ANTHONY: Mr. Commissioner,
6 if I may, I would now like to turn to the geotechnical
7 engineering and construction and the environmental
8 aspects raised by this project.

9 Though major portions of the
10 proposed pipeline route were relocated during the course
11 of this Inquiry, and many of the specific techniques
12 and procedures to be employed were not known, the
13 technical phases of the Inquiry were an important
14 background to predict and evaluate the potential
15 environmental impact of the proposed pipeline.
16 Canada's Arctic is our last frontier and while there
17 may be experience with pipeline construction in other
18 areas, as Mr. Gibbs so confidently asserted yesterday,
19 where the question of a pipeline construction in the
20 fragile northern environment is concerned we must
21 approach as neophytes largely ignorant and subject to
22 physical and biological constraints not previously
23 encountered.

24 We must, therefore, approach
25 construction of a pipeline in Canada's Arctic humbly
26 and cautiously. C A R C will not be presenting detailed
27 recommendations concerning the significant geotechnical
28 problems raised by the project. Rather, we bring to your
29 attention a series of geotechnical, engineering and
30 construction concerns that are crucial to an understanding

1 of the environmental impact of the proposed Mackenzie
2 Valley Pipeline. In our view, these crucial issues
3 have not been satisfactorily resolved. The onus is
4 on the applicant to advise this Inquiry what it proposes
5 to do and satisfy those responsible for examining the
6 impact of their proposal that the preventative and
7 remedial measures are practical and that they'll work.

8 With respect to a great number
9 of major geotechnical and engineering issues posed by
10 construction of the first chilled buried gas pipeline
11 in permafrost the onus has not, in our view, been
12 satisfied.

13 The Canadian Arctic Resources
14 Committee is forced to conclude, after reviewing the
15 vast amount of highly sophisticated, yet often
16 contradictory evidence, that the applicants, in order
17 to build a pipeline within the timeframe proposed, are
18 willing to use the last Canadian frontier as an ex-
19 perimental ground to prove their technology.

20 Time and time again throughout
21 this Inquiry the geotechnical witnesses were forced to
22 rely on formulas, models and southern experiences
23 unsubstantiated by actual northern field experience to
24 explain and justify the geotechnical conclusions they
25 have drawn. The northern test facilities used were
26 representative of only a very small portion of the
27 terrain encountered by the proposed pipeline route in the
28 North.

29 The Calgary test facilities
30 have proven suspect and issues of great importance and

1 even the pipeline applicants themselves have disagreed
2 on their ability to construct the pipeline within the
3 timeframe proposed. Frankly, it worries me when at the
4 conclusion of this Inquiry on great issues of geo-
5 technical importance, we are left with statements like
6 you just treat the permafrost like rock.

7 This Inquiry does not have
8 adequate information before it on a number of key
9 geotechnical issues. It would be the height of folly
10 to allow the construction of the pipeline to proceed
11 at the present or, in fact, under any timeframe without
12 first requiring the applicants to demonstrate that all
13 major geotechnical, engineering and construction
14 problems will be solved. Because the applicants have
15 been unable to do so to date, the Canadian Arctic
16 Resources Committee submits that this Inquiry recommend
17 to the Government of Canada that it require resolution
18 of the following issues, in particular, as a pre-
19 condition to proceeding with the application.

20 First, frost heave and frost
21 bulb. The issues surrounding the question of frost
22 heave and frost bulb, particularly in the areas of
23 discontinuous permafrost have been a subject of major
24 controversy before this Inquiry. This is as it should
25 be given the state of art at the present time. While
26 the safety of the proposed pipeline is undoubtedly an
27 item to be considered by the National Energy Board,
28 it is a matter that is also of central concern to this
29 Inquiry.

30 If this Inquiry must evaluate

1 the potential environmental impacts of a buried, chilled
2 gas pipeline, it must, as a precondition, know in
3 detail the protective and remedial measures to be
4 employed. It is up to this Inquiry to determine whether
5 is has sufficient evidence to establish that the pipeline
6 can be built as ^{the} applicants propose and that the
7 protective measures they propose will be effective.

8 Questions of frost heave,
9 differential heave and discontinuous permafrost and
10 fen areas, shut-off pressures, limits for chilling,
11 surface and sub-surface drainage are issues of great
12 environmental importance. In our view, the answers have
13 not been convincing. The position taken initially was
14 that adequate shut-off pressures could be obtained to
15 prevent frost-heave by the utilization of basically
16 two techniques, deeper burial and a berm. Now that the
17 original calculation for shut-off pressures have been
18 shown to be faulty, the use of these techniques may be
19 in question and the use of other remedial techniques
20 such as removal of frost susceptible soils, have not
21 been fully assessed. While Arctic Gas has stated that
22 it is satisfied that various remedial measures will work,
23 even though they have not demonstrated where and how
24 they will be employed along the pipeline route, these
25 techniques have not yet been considered and field tested
26 given the expected new cut-off pressures.

27 Nor should this Inquiry merely
28 accept the comments of counsel, as eminent as
29 counsel for Arctic Gas is, that these remedial measures
30 will, in fact, work. As was pointed out by the

1 Environmental Protection Board, the measures designed
2 to prevent frost heave called "protective measures"
3 are the same measures that are expected to be used
4 by the applicant in the event that frost heave does
5 occur, only now they're called "remedial measures".
6 One has reason to be wary when protective measures
7 are recycled as remedial measures.

8 Major questions remain to be
9 resolved. We submit the applicant has not demon-
10 strated that its proposal to ensure sub-surface,
11 or sub-surface drainage through the frost bulb by use
12 of an insulated pipe will, in fact, be successful.
13 Given the importance, in particular, of sub-surface
14 drainage to the fish resource where over-wintering
15 areas of fish are located downstream of a pipeline
16 crossing, this issue must be resolved before conclusions
17 as to the environmental impact of the project can
18 be drawn.

19 Given the new shut-off pressure
20 requirements can one say with confidence that the river
21 crossing techniques suggested by the applicant will,
22 in fact, be adequate. Since the remedial measures
23 at river crossings are more limited and may demand
24 unacceptably deep excavations, there is every reason
25 to demand a thorough re-evaluation of each river
26 crossing.

27 Such re-evaluation may require
28 a reconsideration of above ground crossings. If the
29 above ground crossings suddenly become feasible, a
30 different series of environmental concerns are raised.

1 These concerns have not been the subject of evidence
2 before this Inquiry and their impacts cannot be
3 determined.

4 The limit of chilling has
5 similarly been the subject of controversy though it
6 is central to a determination of the environmental
7 impact of the proposed pipeline. Arctic Gas, Foothills
8 and the Environmental Protection Board have, all three,
9 presented evidence on where chilling of the gas should
10 cease in the discontinuous permafrost zone. None of
11 the three entirely agree on either location or
12 methodology. This matter must be resolved before the
13 actual impact of the pipeline on the environment
14 can be determined.

1 We make therefore the following
2 recommendations.

3 1. This Inquiry conclude that
4 there is not sufficient evidence to determine the
5 environmental impact of a chilled, buried gas pipeline
6 because the question of the nature and extent of
7 anticipated frost heave and frost bulb problems have not
8 been determined. Until there is evidence demonstrating the
9 problem of frost heave has been fully and accurately under-
10 stood and the remedial measures proposed have been tested
11 in field experiments covering the broad range of conditions
12 to be encountered, no application for a buried, chilled
13 gas pipeline should be entertained.

14 2. The use and success of
15 remedial measures proposed by the applicants, particularly
16 those proposed to ensure subsurface draining through the
17 frost bulb, have not been adequately demonstrated. Because
18 of the crucial importance of this technique to impact on
19 the fisheries resource this technique must be studied in
20 great detail and no conclusions of environmental impact
21 on the fish resource can be drawn until this information
22 is available and evaluated.

23 3. There is insufficient evidence
24 to allow this Inquiry to conclude the appropriate methodol-
25 ogy or establish the location for the limits of chilling.
26 Because of the importance of this matter in evaluating
27 the environmental impact, particularly in drainage and
28 erosion control in the discontinuous permafrost zone, no
29 conclusions on the environmental impact of the gas pipeline
30 is possible until this matter has been further studied and

1 evaluated.

2 Now, I would like to turn to the
3 issue of snow roads. With rare unanimity the environmental
4 witnesses appearing before this Inquiry have agreed that
5 the environmental impact of the proposed pipeline would
6 be dramatically increased if construction of the
7 pipeline was accompanied by road access. All parties were
8 in agreement that no road access should be maintained
9 along the pipeline right-of-way, particularly on the
10 North Slope of the Yukon. Hence, the success of the
11 proposed use of snow roads to facilitate the movement
12 of men and equipment during the construction season
13 is of crucial importance.

14 Snow roads of the standard required
15 to handle the volume and weight of anticipated traffic
16 for pipeline construction have not been adequately tested
17 throughout the range of seasons and snow conditions
18 anticipated. Neither have the snow harvesting or snow
19 manufacturing techniques been demonstrated in field
20 testing to produce the volume of snow that might be
21 required. The long term and indirect effects of winter
22 roads has yet to be evaluated.

23 The fear has been expressed that
24 there may be problems with the use of snow roads in
25 certain terrain and gradients and most significantly in
26 areas of high ice content soils, such as the Yukon North
27 Slope. On the basis of experience in Alaska, evidence
28 has been presented that maintenance of snow roads for
29 the construction season proposed, given the snowfall of
30 the area has not been satisfactorily proved.

We therefore make the following recommendations:

2. That further research be conducted to demonstrate the viability of the use of snow roads on ice rich soils and in all circumstances

1 likely to be encountered and not merely on the basis
2 of average conditions.

3 3. The acceptability of snow
4 manufacturing and snow gathering techniques suggested
5 by the applicant be tested and examined under
6 actual field conditions. In particular research be
7 directed to consider the environmental impact of snow
8 fences and the withdrawal of water for snow manufacturing.

9 I refer now to construction
10 scheduling. Concern has been expressed, both from the
11 environmental intervenors and residents of the north
12 and from Mr. Gibbs in Calgary that the proposed construc-
13 tion schedule is unrealistic and will lead to environmental
14 impacts that remain unidentified and unevaluated. The
15 winter construction schedule particularly on the North
16 Slope of the Yukon, is tied to the availability of snow
17 and the length of time an acceptable snow road can be
18 maintained. Concern has been expressed as to the
19 ability of a snow road to be maintained throughout the
20 construction schedule proposed, the environmental effects
21 of abandonment of the snow road in the spring, personnel
22 problems with winter construction, productivity estimates,
23 work slippage and many other potential problems with
24 a tight construction schedule.

25 Except for engineering proposals
26 to help extend the life of the snow road during the
27 spring season, the applicants have not provided contingency
28 plans or alternatives they propose to follow in the event
29 that the snow road does not last throughout the period
30 required by their construction work schedule. Right

1 to the end of this Inquiry the question as to whether
2 or not the proposed construction schedule is
3 realistic particularly in the Yukon North Slope and, we
4 would submit, in the Mackenzie Delta, has been a
5 contentious issue.

6 I perhaps would like to refer
7 here to two comments by the applicants delivered to this
8 Inquiry that I find particularly disturbing.

9 Mr. Gibbs, in his discussions
10 of the construction schedule, stated that in his
11 view, in the view of Foothills, that the alternative
12 appears to be either a two winter construction schedule
13 on the North Slope or some summer construction. Mr.
14 Marshall in delivering Arctic Gas' submission, in
15 particular on page C13, raised the possibility of what
16 happens if the government demands to do some summer
17 construction. Now, I would suggest --

18 THE COMMISSIONER: I think to be
19 fair, I raised that with Mr. Marshall during the
20 hearings and he was responding. I had raised it because
21 of the fact as Mr. Horte has told us Arctic Gas wants
22 the government to guarantee any borrowings exceeding a
23 25 percent overrun as well as any interruption of --
24 as well as repayment of the borrowings to cover any
25 interruption of service from any cause, any major
26 interruption of service. So that, I said gave the
27 government an interest in -- might well give the
28 government an interest in seeing construction proceed
29 even in summer because, of course, they would be the
30 people who would be suffering financially once that

1 25 percent overrun had been reached. At any rate,
2 Mr. Marshall didn't inject that into the argument,
3 I did.

4 MR. ANTHONY: Yes, Mr. Commissioner,
5 I was merely --

6 THE COMMISSIONER: If that gets
7 us anywhere.

8 MR. ANTHONY: I merely wanted to
9 point out that that possibility which quite properly
10 is an issue that we must consider along with the evidence
11 we have already heard about the need for repair in the
12 summer, the compressor station construction and stock-
13 piling and so on, creates to my mind -- if Mr. Ballem
14 will excuse me -- an ugly scenario. The possibility of
15 summer construction we must -- as remote as that may
16 be and we certainly it is remote and we accept what
17 Arctic Gas has had to say that they are committed not
18 to use it -- I think the point must be made that all
19 of the environmental predictions particularly with
20 respect to the North Slope are based on the fact that
21 there will be no summer construction.

22 Therefore, if that is even a
23 remote possibility we add to our recommendation dealing
24 with the construction scheduling the very strongest
25 term that there be no pipeline construction at all in
26 the summer under any circumstances and if Arctic Gas
27 is strongly committed to this and they are urging this
28 on the government, we would join them in that very
29 strong recommendation.

30 Secondly, that the applicant

1 particularly when considering construction on the
2 North Slope of the Yukon and in the Mackenzie Delta
3 has not demonstrated that its construction work
4 schedule is practical in all climatic conditions that
5 may be encountered during the construction season.
6 Therefore a more conservative construction schedule
7 must be required of the applicant, particularly in the
8 early years of construction, to ensure that construction
9 will take place only during the times of the year when
10 environmental damage can be kept within acceptable limits.

11 Thirdly, a contingency plan much
12 farther than the material that has been filed to date
13 by Arctic Gas must be prepared which provides for alter-
14 native construction timing in the event of slippage
15 or if climatic or other environmental conditions demand
16 an unanticipated reduction in the winter construction
17 season.

18 I now turn to the question of
19 river crossings. Of particular concern in the design and
20 construction of the proposed pipeline is the question of
21 river crossings. Because any failure or threat to the
22 integrity of the gas pipeline requires immediate attention
23 and repair, and because vital water bodies cannot be
24 tampered with during particular times of the year, either
25 because of rapid runoff or because of particular
26 sensitivity due to fish migration, the environmental
27 concern over river crossings is particularly acute.
28 The problems of slumping, avalanching, and solifluction
29 along disturbed banks during warmer weather, river icings
30 and scour, sedimentation and siltation, disposal of the

1 dredged materials and maintenance of subsurface drainage
2 all add to this concern. Should deeper burial be
3 required this will result in more costly construction
4 procedures at river crossings with greater environmental
5 degradation because of the need to dispose of larger
6 amounts of material and the probability that longer
7 river crossing construction time will be required.

8 In the view of the Canadian
9 Arctic Resources Committee the possibility of using
10 overhead crossings has not been adequately examined. In
11 view of the fact that a greater shut-off pressure may
12 be required than originally estimated with, hence,
13 anticipated greater costs in river crossings, the
14 economic viability of overhead crossings should be
15 re-examined.

16 Our recommendation is, sir,
17 that the possibility of overhead river crossings
18 be re-examined particularly for deep narrow crossings or
19 crossings with ice-rich banks.

20 The second recommendation with respect to consideration
21 of the question of river crossings.

22 I now turn to the question of
23 re-vegetation.
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Because of the importance of the revegetation process on the slope stability, terrain degradation and drainage and erosion control, the revegetation procedures must be demonstrated to be effective within the time frame required for rehabilitation. The two pipeline applicants have submitted independent revegetation programs and have criticized the other's programs as unsuited to the requirements of revegetation. Neither applicant has shown that its revegetation program will be successful in all of the areas that will be employed, particularly in ice-rich permafrost and on slopes where erosion may be a problem. Both revegetation programs are dependent on a stable soil surface with particular criteria to assist in propagation and on the ability to initiate seeding at a critical time of the year. Neither revegetation program, however, has evaluated its program in all types of terrain to be encountered or if seeding cannot take place at the times and in the manner anticipated.

Our recommendations are:

1. The applicants must conduct further field testing to demonstrate the acceptability of the respective revegetation programs particularly on slopes and areas of ice-rich permafrost.
2. The applicants shall demonstrate that the revegetation program or some alternative program designed to prevent erosion and other adverse environmental impacts, is possible in areas of sensitivity in the event that revegetation cannot take place at the

1 optimum time and in the manner proposed, and I think,
2 for example, here, Mr. Commissioner, the situat-
3 ion of long terms of fog on the North Slope at a time
4 when revegetation by aerial revegetation is required.
5 You will recall that there is a time frame within
6 which revegetation should be initiated, and we have
7 the problem of the caribou migration and so on, and
8 our concern is that should there be long periods of
9 fog and this critical period, what then? That's the
10 sort of information we seek to get further experience
11 on and further information.

12 I ^{have} dealt with these short-
13 comings and our concern about the experimentation on the
14 north in the geological sense. I now would like to
15 address a few comments with respect to this question
16 of the environmental --

17 THE COMMISSIONER: Excuse me,
18 I don't know what your program is, but I suppose
19 Commission counsel wants you to carry on for a little
20 while longer. He's saying, "Yes."

21 We'll take just about a two or
22 three-minute break so that I can carry on for the next
23 half-hour and assimilate this.

24 (PROCEEDINGS ADJOURNED FOR A FEW MINUTES)

25 (PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

26 THE COMMISSIONER: All right,
27 let's take our seats and carry on until -- before
28 you begin, Mr. Anthony, I should say that in addition
29 to the evidence that has been given at these hearings,
30 both the formal hearings and the community hearings,

1 the Inquiry has received hundreds of briefs from
2 people all over Canada, and I have read all of them
3 and I mention it because they are representations that
4 I have by no means overlooked, and I have received a
5 brief from Gina Blondin, Rosemary Cairns, Valerie
6 Herder and Mary Curtain which will be marked as an
7 exhibit, and which I will read and study, and if they
8 are here I want them to understand that in fact their
9 views will be considered in a way that the views of
10 hundreds of Canadians have been considered that have
11 simply written to the Inquiry by mail. All of those
12 briefs, by the way, have been marked as exhibits and
13 have been treated ⁱⁿ the same way as the evidence received
14 at the hearings though given the nature of our task
15 they are not necessarily as relevant in all respects
16 -- to say nothing of this brief because I haven't
17 read it yet -- but at any rate, carry on, Mr. Anthony.

18 It must be getting close to
19 quitting time.

20 MR. ANTHONY: Mr. Commissioner,
21 I addressed comments of the geotechnical concerns and
22 gaps in information. I would now like to address a
23 few comments with respect to our concern with
24 respect to environmental information that's available.

25 The pace and scope of
26 development in the Canadian Arctic is taking place at
27 such an accelerated rate that it is outstripping our
28 knowledge of the environment and the wildlife of the
29 area. So little environmental evidence is available
30 on such matters as wildlife dynamics, and over such a

1 relatively short period of time that it is almost
2 impossible to make a prediction of environmental
3 impact of the pipeline in a number of critical areas.

4 The environmental submissions
5 and the recommendations of the Canadian Arctic Resources
6 Committee are spelled out in detail in the
7 sections dealing with the particular environmental
8 concern. Almost every section contains a series of
9 recommendations for further study and research.

10 The problem, as we see it,
11 has been not only the gaps in the research and the
12 knowledge gaps in understanding the environmental
13 impact, but that the research has often been misdirected
14 given the real needs of the northern communities. For
15 example, the whitefish is one of the most important
16 species for subsistence and commercial use, yet was
17 one of the least studied. Though the Mackenzie Delta
18 area is one of the most important beluga calving
19 areas, no direct disturbance studies were conducted
20 and even the precise location of the calving area is
21 still unknown.

22 Although there is no clear-cut
23 evidence that methanol released to the environment
24 a little at a time will be intolerable to aquatic
25 organisms, there is similarly no evidence that incrementally
26 it is environmentally acceptable. Again such
27 research is vital before one can conclude or make any
28 conclusions with respect to environmental impact.

29 Now yesterday Mr. Genest
30 criticized some of our requests for further study and

1 he labelled some of them as concerns with respect to
2 game management, though I would suggest that research
3 that is required for game management may itself be a
4 legitimate reason for demanding further research, since
5 these game management plans themselves have been brought
6 on by the pipeline proposal.

7 Our request goes beyond that.
8 We suggest that you require this further research to
9 obtain information over time. Throughout the Arctic
10 Gas submission they talk in terms of "This is the
11 pattern of development; this is what happens," etc.

12 But a three or a four or even
13 a five-year study may not establish any real pattern.
14 It is this concern for understanding the cycles and
15 the patterns of environmental matters, the dynamics,
16 if I may say, that is perhaps the greatest concern and
17 the greatest gap in environmental evidence. If I may
18 use an example of why I think it's important. Mr.
19 Marshall, I believe, yesterday provided you with a
20 graph to demonstrate the numbers of snow geese in
21 particular years, and in one particular year it was
22 quite low, and the concern, of course, is what would
23 happen if that was the year when Arctic Gas was to do
24 most of its activity on the North Slope? Can we say
25 with any confidence that the dynamics, the cycle
26 of population size would come back if in fact the
27 impact was on the year when there is particularly a
28 natural decline? Those are the sorts of questions that
29 I think must be addressed, and why research is required
30 not only over a short period of time or directed solely

1 to impact on any sort of average condition for the
2 usual condition on the basis of one or two years' study.

3 Canadian Arctic Resources
4 Committee has attempted to identify a number of environ-
5 mental areas requiring further research and study, and
6 indicate the knowledge gaps that exist. CARC submits
7 that until these knowledge gaps have been satisfied,
8 no comprehensive understanding of the potential environ-
9 mental impact of the proposed gas pipeline is possible
10 and any consideration of major development projects
11 should proceed with extreme caution.

12 Our predictions of impact can
13 only be as good as our data, and in too many instances
14 our data base is inadequate. One of the ways to improve
15 this data base is to give permanent protection to
16 certain areas that will be long-term outdoor laboratories
17 and that is why CARC urges in another part of its
18 submission that several proposed I.B.P. sites be set
19 aside before any pipeline right-of-way is approved.

20 For many geotechnical and
21 environmental questions, the theme of the applicants
22 of this Inquiry has been to leave the details to be
23 worked out during final design. We also note that
24 many of the environmental management goals, for example
25 those mentioned in the 1972 pipeline guidelines, with
26 abundant use of terms such as "minimize impact" or
27 "acceptable standards" still remain vague. CARC
28 stresses that leaving important questions to final
29 design and leaving many environmental management steps
30 as vague goals such as to minimize impact can only mean

1 that pipeline construction would in effect be a large
2 experimental undertaking. The uncertainties of
3 proposed geotechnical projects with many gaps in our
4 knowledge of northern environment and a local national
5 and international importance to northern habitat are
6 all reasons why we should proceed with caution and
7 should not be guilty of experimenting on the north.

8 Mr. Commissioner, not only are
9 we experimenting on the north, but we may be experi-
10 menting for a long period of time, and I would like to
11 address a few comments if I may on the question of
12 looping before we close.

13 Evidence at this Inquiry
14 indicated a distinct possibility that the proposed
15 Mackenzie Valley Gas Pipeline would be looped and
16 that this looping may even commence soon after the
17 completion of initial construction. This would
18 extend the construction activity in the Mackenzie
19 Valley area beyond the period suggested in the current
20 application, and added to the possibility of an
21 oil pipeline could result in construction activity for
22 as long as 15 to 20 years.

23 Looping will undoubtedly
24 encounter many of the same problems studied with respect
25 to construction of this pipeline, with the added signi-
26 ficant environmental feature that it will be constructed
27 in an area already heavily impacted by the first pipeline
28 and may, if current plans for an oil pipeline are
29 followed, be constructed at the same time as an oil
30 pipeline.

1 The effect of this sequence
2 of construction is unknown. Not even as it affects
3 the plans for the current gas pipeline, for example
4 witnesses for Arctic Gas suggested that roads designa-
5 ted as temporary may be left in place if they would
6 be required for subsequent looping. Such basic
7 environmental questions as to whether or not looping
8 is best undertaken immediately upon completion of
9 the main construction while the various supporting
10 infrastructures are in place, or whether one should
11 wait a period of time and how long one should wait
12 before re-attending, remain largely unanswered.

13 The environmental impact of
14 looping was not studied by the applicants, and there
15 is not sufficient evidence before the Inquiry to
16 allow it to make any recommendations about the probable
17 impact of looping the gas pipeline. The Inquiry should
18 make a clear statement that it cannot evaluate a
19 looped gas pipeline on the basis of evidence before
20 it and that further studies, many of a very different
21 nature, would be required before a proper environmental
22 impact assessment could be made.

23 Our recommendation with respect
24 to the question of looping, sir, is that any applica-
25 tion for looping of the pipeline shall be treated as
26 a completely new and separate pipeline proposal and
27 be subject to a further Inquiry, including new research
28 on the environmental and socio-economic impacts, further
29 public hearings, and consultation and re-evaluation
30 once the impact of the already constructed pipeline has
been understood.

1 We're not suggesting, Mr.
2 Commissioner, an Inquiry necessarily of this type or
3 of this duration; but certainly it must be treated
4 as a separate issue and we must make it clear that
5 our discussions about impact and probable impact are
6 limited when we come to considering the impact of
7 subsequent development or continued development.

8 I now propose to turn to the
9 question of routing and it would be an appropriate time
10 to stop at that point.

11 MR. SCOTT: I think, sir,
12 given the discussion of looping and the activities of
13 tonight, it might be an appropriate place to break
14 until tomorrow.

15 THE COMMISSIONER: Well, when
16 shall we begin in the morning?

17 MR. SCOTT: Ten o'clock, sir?

18 THE COMMISSIONER: Oh, ten
19 o'clock. Yes, by all means.

20 (PROCEEDINGS ADJOURNED TO NOVEMBER 18, 1976)

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347
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Vol. 202

AUTHOR

Mackenzie Valley pipeline inquiry:

TITLE

November 17, 1976

DATE DUE

BORROWER'S NAME

347
M835
Vol. 202

MACKENZIE VALLEY PIPELINE INQUIRY

IN THE MATTER OF THE APPLICATIONS BY EACH OF
(a) CANADIAN ARCTIC GAS PIPELINE LIMITED FOR A
RIGHT-OF-WAY THAT MIGHT BE GRANTED ACROSS
CROWN LANDS WITHIN THE YUKON TERRITORY AND
THE NORTHWEST TERRITORIES, and
(b) FOOTHILLS PIPE LINES LTD. FOR A RIGHT-OF-WAY
THAT MIGHT BE GRANTED ACROSS CROWN LANDS
WITHIN THE NORTHWEST TERRITORIES
FOR THE PURPOSE OF A PROPOSED MACKENZIE VALLEY PIPELINE

and

IN THE MATTER OF THE SOCIAL, ENVIRONMENTAL AND
ECONOMIC IMPACT REGIONALLY OF THE CONSTRUCTION,
OPERATION AND SUBSEQUENT ABANDONMENT OF THE ABOVE
PROPOSED PIPELINE

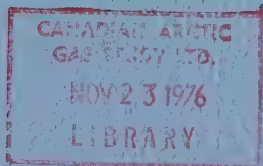
(Before the Honourable Mr. Justice Berger, Commissioner)

Yellowknife, N.W.T.

November 18, 1976.

PROCEEDINGS AT INQUIRY

Volume 203



APPEARANCES:

Mr. Ian G. Scott, Q.C.,
Mr. Stephen T. Goudge,
Mr. Alick Ryder, and
Mr. Ian Roland, for Mackenzie Valley Pipeline
Inquiry;

Mr. Pierre Genest, Q.C.,
Mr. Jack Marshall,
Mr. Darryl Carter,
Mr. J.T. Steeves, and for Canadian Arctic Gas Pipe-
line Limited;
Mr. Gerry Ziskrout,

Mr. Reginald Gibbs, Q.C.,
Mr. Alan Hollingworth,
Mr. John W. Lutes, and for Foothills Pipe Lines Ltd.;
Mr. Ian MacLachlan,
Mr. Russell Anthony,
Prof. Alastair Lucas and
Mr. Garth Evans, for Canadian Arctic Resources
Committee;

Mr. Glen W. Bell and
Mr. Gerry Sutton, for Northwest Territories
Indian Brotherhood,

Mr. John Bayly and
Miss Lesley Lane, for Inuit Tapirisat of Canada,
and The Committee for
Original Peoples Entitle-
ment;

Mr. Ron Veale and
Mr. Allen Lueck, for The Council for the Yukon
Indians;

Mr. Carson Templeton, for Environment Protection
Board;

Mr. David H. Searle, Q.C.
for Northwest Territories
Chamber of Commerce;

Mr. Murray Sigler and for The Association of Municipi-
Mr. David Reesor, palities;

Mr. John Ballem, Q.C., for Producer Companies (Imperial,
Shell & Gulf);

Mrs. Joanne MacQuarrie, for Mental Health Association
of the Northwest Territor-
ies.

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1 Yellowknife, N.W.T.

2 November 18, 1976.

3 (PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

4 MR. SCOTT: Any time you're
5 ready, Mr. Anthony.

6 MR. ANTHONY: Mr. Commissioner,
7 I have been asked to speak softly and
8 I will do what I can to turn the pages as quietly as
9 possible. I would like to continue our submission
10 as found on page 30 of the material circulated to the
11 participants, and the section I'd like to deal with
12 will proceed on a consideration of routing within a
13 general term, and some specific issues we would like
14 to bring to your attention dealing with the whole
15 question of routing.

16 It is undeniable that there
17 are adverse environmental impacts of a gas pipeline
18 that cannot be avoided or mitigated. No matter how
19 skillfully the pipeline is constructed, it is still
20 necessary to bring men and machinery into an area and to
21 provide an infrastructure that will alter the environ-
22 ment. If a critical area is to be protected, the
23 only way of completely avoiding environmental damage is
24 by routing the pipeline away from the area. For that
25 reason the question of route selection is one of the
26 most fundamental and important issues before this
27 Inquiry.

28 There are currently four
29 separate pipeline routes before regulatory agencies
30 to move Alaska natural gas to southern markets. Evid-
ence at this Inquiry has also suggested an examination

1 be made of a route south of the Porcupine River, the
2 now famous Calef route. In the Mackenzie Delta and
3 Mackenzie River area there are two Arctic Gas alterna-
4 tives, in addition the edge of the Shield and the east
5 of the Franklin routes have been proposed as alterna-
6 tives to a Mackenzie River Valley route.

7 Finally, there are minor
8 variations between the Arctic Gas and Foothills routes
9 in the Mackenzie River Valley itself. There are,
10 therefore, alternatives to be considered. The optimum
11 route must also be evaluated as a potential route for
12 an oil pipeline and a highway because whether or not
13 a deliberate corridor policy is adopted, it is likely
14 that any subsequent oil pipeline or highway would
15 follow the route established for the gas pipeline.
16 In other words, the first major pipeline project will
17 create a de facto corridor, and I'll address the
18 question of corridor again.

19 The applicants have made
20 their cases on an assumption that a Mackenzie Valley
21 routing is the best choice possible. In the case of
22 Arctic Gas, the evidence shows that the prime factor
23 taken into consideration was the shortest distance
24 between Prudhoe Bay and the mid-continent markets that
25 would pick up Mackenzie Delta gas along the way.
26 The choice having been made, the efforts of the
27 applicants have been directed to proving ex post facto
28 that their proposed route is the preferred one. But
29 this conclusion cannot logically be drawn without an
30 examination of the alternatives. This examination has

1 not taken place. Only now is the Alaska Highway
2 routing for Prudhoe Bay gas been considered, and
3 studies on the social, economic and environmental impact
4 are not being done in the same detail as those along
5 the Mackenzie Valley route. Similarly, there have not
6 been studies that would compare with Mackenzie Valley
7 studies for a pipeline southwards around Hudson's
8 Bay from the Arctic Islands.

9 Our general recommendations
10 with respect to routing are as follows:

11 (1) Alternative routing options should be properly
12 examined both for Prudhoe Bay natural gas and Mackenzie
13 Delta natural gas, including the possibility that a
14 pipeline route from the Canadian High Arctic might be
15 combined with a Mackenzie Delta pipeline as the
16 preferred system for serving Canadian markets and
17 needs.

18 (2) Evaluation of alternative pipeline routes must
19 be carried out within the context of possible corridor
20 developments such as an oil pipeline and a highway.

21 (3) Until the alternative pipeline routes have been
22 properly evaluated, no proposed route should be approved
23 for the grant of a right-of-way.

24 Now I'd like to turn to
25 two specific elements to keep in mind, considering
26 the general question of routing and I'd like to first
27 turn to the question of the Arctic International
28 Wildlife Range.

29 The strongest support for
30 establishment of an Arctic International Wildlife Range

1 comes from the Arctic Gas Pipeline proponents. The
2 mere fact that Arctic Gas recognizes the route around
3 the Alaska portion of the range as an alternative, yet
4 goes through the same ecological unit in Canada, an
5 area that has not yet been established as a wildlife
6 range, indicates that a range must be established to
7 avoid incursion by industrial projects.

8 Evidence by Dr. Bliss, Dr. Lent,
9 Mr. Collins, Mr. Leonard, and Dr. Weedon has stressed
10 the biological uniqueness of the proposed Arctic
11 International Wildlife Range. The suggestion by the
12 Arctic Gas witness, Dr. Banfield, that the area is not
13 a unique one has been forcefully refuted, we submit,
14 by the evidence of, in particular, Dr. Lent and Dr.
15 Weedon, who commented directly on the uniqueness of
16 the area. In addition, the earlier evidence Mr. Leon-
17 ard, Mr. Collins and Dr. Thompson concerning the range
18 presents overwhelming evidence on the uniqueness of the
19 area. Subsequent evidence of Dr. Calef and Dr.
20 Bergerud and Dr. Lent concerning the Porcupine caribou
21 herd, its uniqueness and the importance of the range
22 to its survival served further to emphasize the
23 uniqueness of this area.

24 In addition to its uniqueness,
25 the range is the only area with a possibility of offi-
26 cial sanction and protection as a wilderness area.
27 The existence of the Arctic National Wildlife Range
28 in Alaska provides a legal and psychological basis
29 from which further protective measures are possible.
30 It is currently the only tundra area in the United
States with protected status and the only area with

1 any reasonable possibility of wilderness designation
2 by the U.S. Congress.

3 The potential for protection
4 of the caribou herd exists because an area which has
5 been declared a wilderness in the United States is
6 exempt from this type of industrial activity. If a
7 pipeline were to go through the Wildlife Range prior
8 to its official designation as a wilderness area, it
9 could no longer qualify under American legislation as
10 a wilderness. Once this happens, the area would be
11 open to a variety of threats including subsequent oil
12 pipelines , permanent roads, test drilling and
13 other related activities. Therefore, even if we
14 were to assume a gas pipeline would have little effect
15 on the caribou or other flora and fauna of the area,
16 the mere approval of a gas pipeline would take the
17 area out of its wilderness status and jeopardize the
18 survival of the area due to subsequent developments.

19 As a first major project
20 designed to cut across the range in both the United
21 States and Canada, the legal effect of its approval
22 would have far-reaching consequences.
23 Environmental associations of both Canada and the
24 United States, such as the Arctic International Wildlife
25 Range Society, the Canadian United States Environmental
26 Council, The Sierra Club, and the Wilderness Society,
27 have all officially taken the position that no pipeline
28 should violate the range area.
29
30

1 The evidence of witnesses before
2 this Inquiry in support of the range have made it clear
3 that the creation of an energy corridor through the
4 range is completely incompatible with the objectives
5 of the range and regard the pipeline crossing of the
6 range as a major and adverse impact on the area. The
7 panel, made up of international members of the Range
8 Society, clearly indicated their preference that there
9 must be no pipeline through the range while admitting
10 that if a pipeline must be built, they preferred one
11 route as compared to the other.

12 It was emphatically stated that
13 a hot oil pipeline is completely incompatible with the
14 whole concept of the range and completely unacceptable.
15 Similarly the concept of a permanent road through the
16 range is intolerable.

17 The intrusion of a pipeline
18 upon an untouched area is irreversible and tragic,
19 whatever steps are taken to mitigate its effects. The
20 encouragement to other industrial development,
21 particularly that related to petroleum development is
22 bound to follow. As a matter of logic and economic
23 sense, proximity to a pipeline is an encouragement
24 to further develop and explore the area. The location
25 of a gas pipeline, therefore, will encourage further
26 exploration and development in the range forever
27 destroying its wilderness value and any possibility
28 of it being a protected area.

29 At the same time, the designation
30 of a pipeline route is potentially the first step in

1 creation of an energy corridor. Canada must develop
2 a policy similar to that for the State of Alaska, as
3 expressed before this Inquiry, that living resources
4 must be given priority over oil and gas development
5 in those unique areas where the habitat of those
6 living resources is identified as critical. Canada
7 has an obligation internationally to preserve its
8 unique areas and to ensure the survival of its
9 living resources where other alternatives are
10 available.

11 If there is ever to be a
12 wilderness or a park in Canada that includes the Yukon's
13 unique, unglaciated ecosystem, it must be found
14 somewhere between the west shore of the Mackenzie
15 and the Alaska border. I pause perhaps to say that
16 a few abandoned oil cans in a few isolated DEW line
17 sites don't alter this basic fact about the North Slope
18 of the Yukon.

19 If Arctic Gas can, at this time,
20 dare to make the argument that the area is already
21 so late--that it's too late, we might as well build
22 a pipeline, then how much easier will it be for an
23 oil pipeline contractor or anyone else in the years
24 ahead to say, well, the area has already been used as
25 a gas pipeline and really use the same argument
26 over to exploit this part of the Yukon.

27 The longer Canada procrastinates
28 in setting up its Canadian portion of the range, the
29 more difficult it becomes for Alaskan officials to
30 continue on with a sound program of conservation and to

1 acquire the necessary funding from the American Congress
2 for improved programs. Special status must be given
3 to the range area in Canada similar to that provided
4 for the range in Alaska so that along with the Americans
5 there can be created one of the great national protected
6 regions in the world.

7 The international boundary
8 is a happenstance in the middle of a total biological
9 unit, especially for the caribou, wolves and other
10 migratory animals demanding international cooperation.

11 The intangible values associated
12 with the proposed Arctic International Wildlife Range
13 must be weighed against the cost savings as a principle
14 reason for selection of routes across the range.
15 Industrialization of the proposed range would overwhelm
16 the wilderness character and ultimately and irrevocably
17 destroy its unique naturalness. It would also have a
18 profound effect upon the international responsibilities
19 in management of the Porcupine caribou herd.

20 It was agreed that no further
21 steps in the legal sense should be taken with respect
22 to those lands proposed for the Canadian portion of the
23 range pending the disposition of the native land
24 claims. When seeking to establish priority within the
25 area of native claims, the first priority would be
26 assigned to the use of the Old Crow Band and the
27 coastal Inuit. Outside of those areas the wildlife
28 value should be given primary concern.

29 Uses which society as a whole
30 makes of the proposed range will be determined by the

1 management authority under such restrictions and
2 regulations as are necessary to the wildlife population
3 and to safeguard the traditional life of the native
4 people. Native people will have a tremendous role
5 to play in the management and conservation of their
6 range area.

7 It appears that economic and
8 engineering concerns ranked ahead of considerations
9 of the environment in the selection of the Arctic Gas
10 prime route which runs through the range along the
11 coast. Certainly, Arctic Gas did not give the same
12 consideration to the wilderness values of Canada that
13 they apparently are prepared to do in the United States.

14 The fact that Arctic Gas was
15 willing to divert its route around the Arctic wildlife
16 range in Alaska as an alternative to its prime route,
17 it was not prepared to provide the same consideration
18 for the proposed range in Canada indicates that unless
19 there is a legal obstacle such as the creation and
20 establishment of an international range, development
21 will proceed through the area.

22 The International Wildlife Range
23 panel and the Alaska witnesses indicated clearly that
24 any routing which diverts pipelines away from the range
25 is to be preferred. These same witnesses went on to
26 say that if a pipeline were ordered to be constructed
27 through the proposed Arctic international wildlife
28 range, the coastal route would be preferred; despite
29 this preference they held a strong conviction that
30 there should be no pipeline across the North Slope of the Yukon.

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1 the Fairbanks corridor, which has the great advantage
2 of being mostly within a utility and highway corridor
3 already heavily impacted by man and being away from
4 the range area. The recommendations we make to you,
5 sir, are outlined in the sections that follow.

6 (1) That the Canadian Government create and declare
7 the Canadian portion of the Arctic International
8 Wildlife Range as proposed by Arctic International
9 Wildlife Range Society.

10 (2) That the creation of an International Wildlife
11 Range take place prior to the construction of any
12 major facility within the area of the proposed range
13 and in conjunction with settlement of the native
14 land claims.

15 (3) That the Canadian authorities work in co-operation
16 and in conjunction with the American authorities to
17 have the proposed range receive the highest form of
18 protection under their respective laws. Canada should
19 provide whatever assurances are required to have the
20 American portion declared a wilderness area and arrange
21 for a similar declaration of the Canadian portion.

22 (4) That the area within the proposed range be pro-
23 tected and excluded from any pipelines or pipeline-
24 related activity, and in particular, that the range area
25 be protected from the development of an energy corri-
26 dor which might include a road or an oil pipeline.
27 Given the current alternatives considered by Arctic
28 Gas, this would mean a pipeline constructed along the
29 Alaska Highway since both the prime and interior routes
30 proposed by Arctic Gas would traverse the proposed range

1 in Canada.

2 A similar philosophy, sir,
3 addresses our consideration of the International
4 Biological Program or the I.B.P. sites.

5 The main purpose of the
6 International Biological Program was to study biological
7 productivity of the earth's surface in relation
8 to human welfare. This research soon made it clear
9 that outdoor laboratories in which measurements of
10 productivity are to be made require some sort of assurance
11 that the outdoor laboratory will still -- is still
12 going to be there to allow remeasurement in 5, 10, or
13 20 years as the need may arise. For this reason
14 one section of the International Biological Program
15 was called "Conservation of Terrestrial Communities"
16 and has devoted its efforts to an inventory of areas
17 suitable for preservation as long-term outdoor laboratories.
18 Seven formal applications were prepared for
19 ecological sites in the N.W.T. and Yukon in the
20 summer of 1975. These were submitted to the government
21 and submitted to this Inquiry, sir.

22 Proposed ecological reserves
23 can range from small single use areas for outright
24 preservation of some biological or ecological feature
25 to large multiple use areas that could be zoned and
26 managed to allow protection of biological features concurrent
27 with industrial development in adjacent zones.
28 Included in the seven formal applications for
29 ecological reserves that have now been filed by the
30 I.B.P. panels are some sites that would be specifically

1 designed to monitor the side effects of industrial
2 development.

3 In the comments that intro-
4 duced these final arguments by Canadian Arctic Resources
5 Committee, it was asked where several years of study
6 and public hearings have brought us. Whether or not
7 a pipeline is approved, the hearing procedures that
8 have taken place have repeatedly involved speculation
9 about biological impact of the proposed development.
10 Much of the biological information brought out at this
11 Inquiry has been recycled from short duration studies
12 in a few locations in the north. There are no outdoor
13 laboratories from which we can draw reliable, long-term
14 biological records to improve our predictive
15 capabilities -- and there are no outdoor laboratories
16 or monitoring areas that tell us what has actually
17 happened in the post-construction phases of other
18 projects such as hydro developments and road construc-
19 tion.

20 If a pipeline is approved for
21 the Mackenzie Valley or Northern Yukon, it is imperative
22 that a grant of right-of-way be preceded by a designa-
23 tion of lands that would perform the dual functions
24 envisaged for the I.B.P. sites, namely the preservation
25 of both representative and unique habitats and the
26 establishment of areas that will be the permanent
27 outdoor laboratories for future scientific studies.

28 It is important to stress
29 that the scientists who have proposed I.B.P. sites
30 in the north regard native people as part of the

1 ecosystem. This will be compatible with the legal
2 establishment of ecological sites. In some cases,
3 however, it will be necessary to develop management
4 restrictions in consultation with native people to
5 ensure that the animal resources within the ecological
6 sites are not over-harvested.

7 In relation to native land
8 claims, co-chairman of the two northern I.B.P. panels
9 have taken the position that regardless of who owns
10 or controls the land, there are certain areas that
11 deserve special protection and management. By protect-
12 ing certain life systems characteristic of the Yukon and
13 N.W.T., the proposed I.B.P. sites would not only be
14 serving some areas for long-term study and education
15 but would also be protecting the hunting and fishing
16 resources of the native people.

17 Established ecological sites
18 would require management plans and in some cases
19 zoning. Most reserves would have some part that is
20 zoned and managed for maximum preservation and other
21 parts that would be meant for scientific study in a
22 variety of monitoring measurements of disturbances.
23 That is why it is not necessarily a contradiction to
24 have things such as pipelines passing through some
25 parts of some reserves.

26 And the recommendation, sir,
27 flow out of those comments with respect to the
28 creation of certain specified I.B.P. sites in advance
29 of any pipeline route approval.
30

1 I would now like to turn to a
2 few comments with respect to corridors. The northern
3 pipeline guidelines have placed the issue of the
4 corridor development squarely before this Inquiry.
5 In the evidence this issue has been seen in two distinct
6 contexts. One is whether a corridor concept should be
7 recommended to the government, whereby a transportation
8 corridor would be identified which would serve not only
9 the proposed natural gas pipeline but also an oil
10 pipeline, a highway and other possible developments
11 such as a railway or high voltage transmission line.

12 The other is whether the
13 establishment of a natural gas pipeline route creates
14 a de facto corridor with a high likelihood that an
15 oil pipeline and other developments will follow so
16 that an assessment of the impacts of a particular route
17 for a natural gas pipeline should also include an
18 assessment of the suitability of the route for an
19 oil pipeline and other developments. As to the first
20 issue, CARC does not recommend an explicit corridor
21 policy. Rather, subsequent developments must be
22 examined for their particular merits, for the purpose
23 of choosing the appropriate routing.

24 The studies commissioned by
25 CARC led us to the conclusion that we could not
26 establish empirically that environmental effects would
27 be lessened by combining transportation facilities
28 in a single corridor. We also agree with the testimony
29 of Dr. Banfield that the cumulative effect could be
30 "synergistic and multiplicative rather than simply

1 additive in total".

2 As for the second issue, the
3 evidence establishes, in our view, that the route
4 chosen for a natural gas pipeline is likely to be that
5 followed by a subsequent oil pipeline and possibly
6 by other transportation facilities. Therefore, the
7 natural gas pipeline route creates a de facto corridor
8 and its environmental impacts must be evaluated on
9 this basis.

10 You, Mr. Commissioner, have on
11 several occasions during this Inquiry made it clear
12 to the applicants that they must provide evidence as
13 to the environmental impact of an oil pipeline along
14 the route proposed for the natural gas pipeline. This
15 they have not done. Witnesses for Arctic Gas have
16 admitted, in effect, that they have studied the impacts
17 of a gas pipeline completely in isolation.

18 The result is that at the
19 conclusion of this Inquiry the applicants have not shown
20 what the total environmental impacts of building a
21 natural gas pipeline or what they will be because they
22 have not presented evidence on the suitability of their
23 proposed routes for an oil pipeline and other facilities
24 that in all likelihood will be established.

25 Therefore you, Mr. Commissioner,
26 cannot report to the Minister that either of the
27 applicants have made a case for the issue of rights-of-
28 way over Crown land.

29 This is not merely a technical
30 objection.

1 Numerous witnesses have stressed
2 that the construction of an oil pipeline would create
3 impacts of a significantly greater magnitude than those
4 of a gas pipeline, both for the ecosystem as a whole,
5 as well as specific elements such as fish or vegetation.
6 Despite the urgings of this Inquiry, the potential
7 impact of a combination of an oil and gas pipeline has
8 not been conducted. While it may be possible to make
9 some predictions from the results of the gas pipeline
10 studies, a great deal more study would be necessary
11 and many options now regarded as acceptable would be
12 intolerable, given the introduction of an oil pipeline.

13 To protect the integrity of
14 an oil pipeline it will have to be constructed in its
15 own right-of-way, the time and mode of construction
16 would be different than a gas pipeline and it would
17 require its own infrastructure of communication systems,
18 maintenance staff and maintenance regime. It is
19 entirely possible that the cumulative impact would
20 exceed the adaptive tolerance of the environment
21 and species living in the area of the combined
22 disturbance.

23 Given that routing of a gas
24 pipeline is regarded as being more flexible than that
25 of an oil line, these concerns would apply even more
26 urgently to consideration of a corridor on the Yukon
27 North Slope. Many witnesses have testified as to the
28 problems of a gas pipeline on the North Slope. A further
29 and more urgent concern is that if a gas pipeline were
30 allowed along the Yukon North Slope, it would be

1 followed by an oil line.

2 The Alaskan experience suggests
3 that construction of a hot oil pipeline would require
4 a permanent road for maintenance, a gravel pad for
5 construction, a summer security patrol and very rapid
6 repair requirements likely requiring stockpiles of
7 pipe and equipment and increased activity during the
8 critical spring and summer periods.

9 An elevated oil pipeline would
10 threaten the migration patterns of the Porcupine caribou
11 herd. The creation of the transportation corridor
12 itself would stimulate other oil and gas development
13 and create access from the Mackenzie Delta across the
14 North Slope to Alaska through a previously undisturbed
15 area. The combined ^{effects} of any or all of the potential
16 activities of a transportation corridor would, in the
17 view of CARC, result in environmental destruction of
18 the Yukon North Slope and as such is totally unacceptable.

19 CARC also submits that an oil
20 pipeline constitutes an extreme threat to the Mackenzie
21 Delta and to the Mackenzie River itself. There has
22 not been a thorough assessment of the impact of a major
23 oil spill in the Mackenzie Delta; despite the fact that
24 such a spill would be of a regional, national and global
25 significance and must be regarded as a likely
26 eventuality given the amount of oil related activity
27 in the area. As for the Mackenzie River itself, building
28 a lengthy pipeline almost entirely within one valley
29 watershed places the entire river system in jeopardy.

30 An oil spill in the Arctic waters

1 would have far-reaching environmental and socio-economic
2 impacts. Beaver and muskrat populations would be
3 particularly vulnerable. It has been suggested that
4 they even be eliminated in areas with a dense covering
5 of oil. The introduction of an oil spill in the
6 Mackenzie Delta, Oil Crow Flats, Ramparts River or
7 other muskrat areas would be a major disaster. I'm think-
8 ing in terms here, sir, not only of the ecological
9 disaster but of the impact on the people who rely on
10 muskrat and beaver in particular.

11 The impact of an oil spill on
12 polar bears, seals and whales is largely unknown.
13 Furthermore, the techniques and mitigative measures
14 for dealing with oil spills are still in their infancy.

15 In summary, it is the proposed
16 route across the North Slope of the Yukon that presents
17 the gravest aspect of the oil pipeline issue. On few
18 subjects has there been such unanimity in opposition
19 to the construction of an oil pipeline as the
20 construction of an oil pipeline across the Yukon North
21 Slope. If there is the shadow of a concern that
22 approving a gas pipeline route across the North Slope
23 will encourage the later approval of an oil pipeline,
24 then the approval of a gas pipeline should be withheld.

25 The recommendations, sir, are
26 as follows:

- 27 1) Because an oil pipeline would involve different
28 geotechnical and environmental questions than
29 have been considered for proposed gas pipelines,
30 it is recommended that this Inquiry advise the

Government of Canada that a complete and separate inquiry, preceded by appropriate environmental and socio-economic studies, is required before consideration can be given to an oil pipeline in the Canadian North, bearing in mind that the considerations given to a gas pipeline by this Inquiry have limited application to an issue of an oil pipeline.

2) An explicit transportation corridor concept should not be recommended, but each new transportation facility should be examined on its particular merits for the purpose of choosing the appropriate routing.

3) The choice of routing of a natural gas pipeline must be regarded as a designation of a de facto corridor with a high likelihood that an oil pipeline and other transportation facilities will subsequently be approved to follow this same general routing.

Therefore, the assessment of the environmental impact of the proposed natural gas pipeline will not be complete without an assessment of the impacts of an oil pipeline along the same route. Such an assessment, not having been made, the granting of a right-of-way should not be recommended at this time.

4) In no event should a right-of-way for a natural gas pipeline be authorized for the North Slope of the Yukon because the granting of such a right-of-way may encourage the subsequent granting of

1 approval of an oil pipeline along the same route
2 and such an oil pipeline represents unacceptable
3 environmental hazards.

- 4 5) Further consideration should be given to the
5 proposed Fairbanks route as a corridor for both
6 gas and oil.

1 Mr. Commissioner, I'd now
2 like to address some more specific comments with
3 respect to the Northern Yukon, and here I am referring
4 to the Yukon Territory north of the Porcupine River,
5 and I and others, I think, have been guilty often
6 of discussing the North Slope when in fact we mean
7 the area including both the prime and the interior
8 routes, which would be the area that I am directing
9 my attention to now and what I mean by the Yukon
10 Territory being the territory north of the Porcupine
11 River.

12 The Yukon Territory north of
13 the Porcupine River is a particularly significant part
14 of Canada. The reasons the area has been proposed for
15 the Arctic International Wildlife Range and various
16 I.B.P. sites have been outlined in specific recommen-
17 dations under those subject headings. But whatever
18 the man-made designations, this area is regarded as a
19 unique and highly significant area for a host of
20 environmental reasons.

21 First, the area is the
22 traditional home of the people of Old Crow, and
23 undoubtedly other participants before this Inquiry
24 will stress the significance of this fact. From the
25 environmental perspective, the area is a fragile, yet
26 uniquely beautiful part of the world. It is extra-
27 ordinarily rich throughout the open water season. It
28 contains caribou migration routes in spring and again
29 in autumn. It is a moulting ground for many hundreds
30 of whistling swans and thousands of Canada geese and

1 white-fronted geese. Many kinds of ducks, loons, and
2 a number of shore birds, some extremely rare, find
3 their nesting grounds along the Arctic coast. The
4 whistling swans that nest along the coast constitute
5 between one-third and one-half of the whole eastern
6 flyway population of whistling swans in the world.
7 There are some very fascinating and extremely valuable
8 spits and offshore islands that are important because
9 they provide protection for nesting birds. Over 100
10 bird species have been identified on the Yukon North
11 Slope alone.

12 With respect to terrestrial
13 mammals, moose and beaver are distributed very widely
14 throughout the entire area; grizzly bear, wolverine,
15 marten, wolf and Dall sheep are predominant.

16 Concerns about constructing
17 a gas pipeline along the north coast of the Yukon have
18 centered around a wide range of environmental, geo-
19 technical and engineering concerns. The potential for
20 construction difficulties on the north coast is related
21 to bad weather, a tight construction schedule, and the
22 problems of access for repair; the ice-rich soil
23 encountered on the North Slope, the rapid changes in
24 river channel patterns, the unproven success of
25 snow road construction, and the limited availability of
26 water.

27 The greatest concern for the
28 Northern Yukon relates to the potential that any
29 pipeline route approved will now become part of a
30 transportation corridor. Whether because the snow road

1 construction does not prove adequate and permanent
2 road access is required, or whether as a matter of
3 policy an oil pipeline is to follow the gas pipeline
4 routing, the result would, in the almost unanimous
5 view of all, be the destruction of essential wildlife
6 habitat in the Northern Yukon.

7 Concern over protection of
8 the fish resource has also centered around the Yukon
9 Territory north of the Porcupine River. Although the
10 fisheries on the Northern Yukon have been one of the
11 most intensively studied subjects, evidence was led that
12 further research from one to three years would be
13 required to completely understand the fish population
14 of the Northern Yukon, and great concern was
15 expressed as to the potential adverse impact on fish.

16 Identification of particular
17 concerns and recommendations pertaining to the Northern
18 Yukon are identified elsewhere in this submission, in
19 the sections dealing with caribou, furbearers, water-
20 fowl, rare and endangered species, and fish.

21 Mr. Commissioner, that section
22 some 125 pages of detailed recommendations, I refer
23 to you as the documentation and the specific recommen-
24 dations that go to these general issues that I am
25 addressing today.

26 However, sir, I'd like to
27 specifically concentrate on the Porcupine caribou
28 herd and its importance with respect to the question
29 of the Northern Yukon. Undoubtedly, a major concern
30 about the Northern Yukon centers around the Porcupine

1 caribou herd. Caribou experts talked about scientific
2 aspects such as the migration patterns and life cycles
3 of the caribou herds, whereas native people described
4 caribou as part of the fabric of their lives and culture.
5 What b oth scientists and natives did share, however,
6 was concern about the ability of the caribou, especially
7 the Porcupine herd, to withstand the pressures of
8 proposed industrial developments.

9 The Porcupine caribou herd
10 which numbers approximately 100,000 animals, is one of
11 the four largest herds in North America. This herd
12 represents one of the last herding herbivores (other
13 than sheep) remaining in North America, and one of the
14 greatest wildlife spectacles left to man. The oldest
15 direct evidence of man in the New World is a scraper
16 made from a caribou thigh bone found in the Old Crow
17 Flats and carbon-dated as 30,000 years old. It
18 attests to the archaeological significance of the herd
19 and the historical dependence of the Indian people
20 on the caribou herd as a resource.

21 Although migration routes
22 vary somewhat from year to year, Indian-made caribou
23 fences and old hunting camps indicate that caribou
24 migration has followed a basic traditional pattern
25 throughout the centuries.

26 There have been marked declines
27 in other caribou herds in other parts of North America.
28 These occurrences have always been attributed to the
29 onset of roads, power projects, railways and other
30 developments, added to the natural cycles and events.

1 In Alaska today the 40-mile herd is a vestage of the
2 herd which was at one time the largest west of the
3 Mackenzie River, and larger than any existing in
4 North America today. Yet its disappearance is in
5 some ways inexplicable to scientists. The range of
6 arguments presented to this Inquiry to explain the
7 mystery are academic. In light of the history of
8 the 40-mile herd, and the development planned to
9 cross the Northern Yukon, the fate of the Porcupine
10 herd falls under an ominous shadow.

11 I'd say, Mr. Commissioner,
12 that the fact that Arctic Gas has for the second time
13 at this Inquiry categorized the 40-mile herd as
14 being alive and well and living in Alaska, casts an
15 even more ominous shadow.

16 The reasons that we have
17 recommended in the caribou section that a study be
18 made of the 40-mile herd is to find out exactly what
19 impacts have resulted in the very drastic decline
20 in that herd. I would hope that at some future
21 time we don't have someone coming to a later Inquiry
22 or a later Government Commission and saying, "Well,
23 don't worry about the Porcupine herd, all 500 of them
24 are alive and well on 500 acres of the Alaska Wildlife
25 Range."

26 Obviously we may have very
27 different hopes as to the future of that herd. But I
28 think that the 40-mile herd and a study of that herd
29 is essential to an understanding of what type of
30 impacts, what in a series of impacts may have been the

1 critical factor in the decline of that herd, and
2 I submit that that herd is hardly alive and well in
3 the sense that I'm talking about when I'm referring
4 to the concern over the Porcupine caribou herd.

5 THE COMMISSIONER: Well,
6 you have the problem with respect to northern species
7 and populations of cyclical changes in population that
8 apparently have occurred in the past and have nothing
9 to do with industrial development and that, of course,
10 makes the determination of cause and effect when
11 declines occur in these populations very difficult
12 indeed. We heard evidence just a month ago about the
13 decline in the population of the Western Arctic herd
14 On the North Slope of Alaska, 250,000 animals five
15 years ago, have now been censused at 50,000.

16 The decline has occurred
17 concurrently with oil and gas exploration on the
18 North Slope and the building of the Trans-Alaska
19 Pipeline. But biologists are not able to say whether
20 there is cause and effect relationship. Infact they
21 don't know. That's the -- I suppose it's an argument
22 that cuts both ways in the sense that it counsels
23 prudence in determining whether to proceed with
24 industrial development. At the same time, as in the
25 case of the 40-mile herd, and other herds that have
26 declined, it isn't all that simple to say that the
27 cause was industrial development.

28 That's the great difficulty
29 in these things.

30 MR. ANTHONY: I appreciate that,

1 Mr. Commissioner, and my own comments would be two.

2 First, I suggest the evidence
3 indicates that there are fluctuations in caribou
4 herds, not necessarily cyclical ones, whereas I don't
5 think the evidence suggests there is a pattern of
6 them going up and down in any particular cycle. But
7 certainly there are fluctuations.

8 THE COMMISSIONER: Yes.

9 MR. ANTHONY: You're right
10 to caution us when we examine it.

11 However, you recall the
12 evidence of Dr. Lent and Dr. Weedon in discussing the
13 40-mile caribou herd. They made it clear that it
14 wasn't the initial onset of any particular development
15 that suddenly resulted in a crash of that herd, that
16 there were a series of events over time, and when the
17 first one, a highway came in, the caribou would
18 migrate across the highway, and then there was a
19 period when they stopped, and the question is: What
20 was the critical element? Can we isolate in any way
21 the critical element? Was it because of the migration,
22 or was it independent of that because of some inter-
23 ference with the calving ground or some other factor?

24 Because we now in that
25 circumstance have a history that we can examine, that
26 is the reason we request that study, and you recall
27 that Arctic Gas in their evidence suggested that
28 Dr. Bergerud's study had indicated there was certain
29 adaptability and so on, and yet when Dr. Bergerud
30 appeared before the Inquiry, he indicated that there

1 are -- there is no hard fast line that you can
2 draw but that you can learn from experience on other
3 caribou herds, and that an assessment of what were
4 the critical factors or what were the critical times,
5 I would suggest, would be very helpful and very
6 important as we attempt to grapple with this very
7 difficult problem that you have indicated.

1 THE COMMISSIONER: Once you get
2 beyond the determination of cause and effect, you, of
3 course, face the value judgment. Let us suppose you
4 were able to say, to predict there would be a decline,
5 a substantial decline over time of the
6 population of a Porcupine River herd if you opened
7 up the northern Yukon wilderness to pipeline develop-
8 ment. Then you have to decide, and this is ultimately
9 something, assuming you are right in making the
10 prediction that you do, this is ultimately a choice of
11 values to be made by the Government of Canada, and
12 the question for them would be: Is it more important
13 to bring the gas from Prudhoe Bay and thus achieve
14 economies of scale, connection with delivery of
15 Canadian gas from the delta; or is it more important
16 to preserve the wilderness and the caribou herd?

17 You would argue, as you have,
18 that the wilderness and the caribou herd must come
19 first but I think Arctic Gas did suggest yesterday
20 or the day before that even if the herd were reduced
21 to a relic, it could then be nurtured over time back
22 to the population level comparable to that which it
23 has achieved today.

24 Well, I'm not asking you to
25 comment on that. You see, assuming you are right in
26 terms of the prediction you seek to make, there's still
27 a value judgment to be made after that, a very basic
28 value judgment.

29 MR. ANTHONY: I think you're
30 right, Mr. Commissioner, and the thing that I am urging

1 on you and to those who must make these very difficult
2 decisions is that you consider the Yukon North Slope,
3 the importance of the herd and the uniqueness of the
4 area when coming to this balance and I'd suggest that
5 while there may be alternatives to Arctic Gas, there
6 may not be alternatives to the people of Old Crow and
7 to the Porcupine caribou herd and to the question of
8 the Arctic International Wildlife Range.

9 I assume that perhaps we have
10 to decide as Dr. Thompson indicated yesterday whether
11 it's important to have gas in southern Canada at
12 \$3.00 or \$3.50, but that is an alternative that's
13 available and there are alternatives available we've
14 urged to Arctic Gas, and there are alternatives
15 available to the people of southern Canada. There may
16 not be alternatives, and we are saying there are not
17 alternatives on the Yukon North Slope. If the range
18 is destroyed it is destroyed.

19 If there becomes a transportation
20 corridor across the north of Canada from the Mackenzie
21 Delta to Alaska, then that is a transportation corridor
22 and that area will be destroyed for the purposes we've
23 indicated, and I'd suggest the importance of the herd
24 and the fact that there are no alternatives in that
25 extent, perhaps should be considered in this judgment
26 that you are rightfully suggesting must be made.

27 If I may address a few more
28 particular comments with respect to the Porcupine
29 caribou herd. The Porcupine caribou herd calves on the
30 coastal plain and foothills area of the Northern Yukon

1 and Alaska. Biologists appearing before this Inquiry--

2 THE COMMISSIONER: I see
3 foothills is spelled with a capital "F".

4 MR. ANTHONY: Yes, Mr. Hollingworth
5 has seen my copy obviously. Obviously Foothills are in
6 friends of the caribou throughout this Inquiry.

7 Biologists appearing before this
8 Inquiry agree that this calving period is the most
9 critical and sensitive time in the caribou life cycle,
10 and along with the period of the post calving aggregation,
11 is the time when particular care must be taken to
12 protect the herd. In recognition of the threat to the
13 caribou herd Arctic Gas have presented a series of
14 mitigative measures; they have unequivocally promised
15 that no road would be built along the North Slope and
16 they've indicated a number of other protective measures
17 which I outlined here, sir.

18 Concern, however, has been
19 expressed with respect to all of these undertakings and
20 the recommendations relating to these concerns are
21 outlined and detailed in the section dealing with
22 caribou. This Inquiry has heard numerous witnesses
23 express concerns relating to the caribou along the
24 proposed coastal route and north of the British
25 Mountains. These are covered later, as I say, in the
26 specific submissions with recommendations dealing with
27 each of these particular concerns.

28 Some of the main concerns with
29 respect to the coastal route I would like to highlight
30 and they are as follows:

- 1 a) Uncertain effect of snow fences on the herd.
- 2 b) That the caribou traverses the calving area--that
3 the route traverses the calving area that is
4 critical to the herd and it's one of the most
5 restricted areas used by caribou. The calving
6 period of the caribou is the most sensitive
7 and critical time for the herd. The impacts
8 of any disturbance during this period create
9 great stress on the herd.
- 10 c) There will be compressor stations with turbine
11 engines within the calving grounds. Their
12 construction will take place in summer during
13 the calving period and the noise will create
14 constant disturbance.
- 15 d) The post-calving aggregation occurs on the coast
16 where there will be some summer activity. During
17 this aggregation, the entire population of caribou
18 assembles in dense concentrations in one group.
19 This event takes place in an even more restricted
20 area and more consistent area from year to year
21 than does calving.
- 22 e) Some caribou do not go south in winter but remain
23 on the coast.
- 24 f) The coastal area is significant to caribou, not
25 only for calving, but as an area where the impact
26 of the mosquitoes and other pests is minimized
27 for at least a few weeks.
- 28 g) The summer period when caribou are on the coast
29 is a more stressful time for the animals since
30 they are bothered by mosquitoes, warble flies and

1 botflies, and their energy demands for the antler
2 growth, moulting and nursing are at a maximum
3 for the year.

- 4 h) There is evidence to show that the greatest amount
5 of calf mortality occurs during the short summer
6 period on the coast. Harassment by aircraft or
7 other activities can cause stampedes which result
8 in separation of calves from their mothers.

9 Such calves are susceptible to wind chill mortality
10 and predation.

- 11 i) Migrating animals would be in the vicinity of the
12 pipeline on the coastal route for as much as
13 two months.

- 14 j) The erosion and flooding problems in later spring
15 along the coastal route would necessitate sur-
16 veillance flights and repair operations increasing
17 contacts with the caribou.

- 18 k) Fog is more frequent along the coast and will
19 cause helicopters to fly at low levels which would
20 harass the caribou during calving.

21 That's the sort of problem, sir,
22 that the greatest of intentions cannot resolve.

- 23 l) The calving grounds may be key real estate in the
24 adaptive race between escape and predation in the
25 wolf-caribou interaction. At calving time
26 caribou are more vulnerable to predation than at
27 any other time.

28 This points to the problem that
29 Dr. Bergerud spoke about, about the mere access, just a
30 mere cutting of the right-of-way.

m) In the likely event of an elevated oil pipeline, large groups of the magnitude found along the coast are less likely to travel over or under a barrier.

n) There is a hypothesis that the caribou are attracted to the coastal area because of the vegetation there.

I only make one further comment, sir, that you'll note that many of these concerns expressed at this Inquiry do not, as Mr. Marshall characterized, relate merely to a transportation corridor. There are many concerns with respect to the Porcupine herd related directly to the question of a gas pipeline.

It is because of these concerns and because of the fact that a great number of people, both layman and biologists, are not satisfied that these concerns can be met that grave doubts have been expressed about any form of construction in the northern Yukon. Fear has been expressed for the safety and even survival of most of the major species encountered in the northern Yukon and, in particular, the Porcupine caribou herd.

The Canadian Arctic Resources Committee wishes to stress that argument between the coastal route and the interior route in the northern Yukon does not come to grips with the real issue. Dr. Gunn, in his evidence on behalf of Arctic Gas, stated that the interior route is to be preferred to the coastal route; and in his evidence, Mr. Jackimchuk, on

1 behalf of Arctic Gas, stated that the coastal route is
2 to be preferred to the interior route.

3 Even if one looks at the major
4 species of concern, the caribou, there is conflicting
5 expert evidence. The biologists consulting to Arctic
6 Gas stated that the coastal route was preferred, while
7 other biologists, Dr. McTaggart-Cowan, Dr. Calef,
8 Dr. Bergerud, Dr. Lent, and Dr. Geist have all stated
9 concern over the survival of the Porcupine herd if the
10 coastal route is used.

11 In this context, sir, I would
12 point out that we have the same criticism in the
13 assessment of the north route that was expressed
14 yesterday by COPE, and that is that the comments in
15 the final argument by Arctic Gas have been based almost
16 entirely on Mr. Jackimchuk's evidence before this
17 Inquiry, and they have in the consideration of the
18 impact of the proposed Arctic Gas route on caribou
19 ignored, in fact dismissed, the evidence of the other
20 experts who I've outlined there, as saying their concern
21 is basically about the transportation corridor; and
22 certainly they express concern about a transportation
23 corridor but each of these gentlemen also addressed
24 their minds to the question of a gas pipeline route.
25 I would suggest that in considering the Arctic Gas
26 evidence and in considering the conclusions that they've
27 urged upon you, it is significant to note that they
28 are based almost entirely on Mr. Jackimchuk's evidence
29 and have not come to grips with the evidence of the
30 other caribou witnesses on this question of impact of the

1 gas pipeline on the Porcupine herd.

2 The only conclusion to be drawn
3 is that there is no pipeline route on the Yukon north
4 of the Porcupine River that can be constructed in
5 an environmentally acceptable manner. Given the fact
6 that the gas pipeline might be followed by an elevated
7 hot oil pipeline and an access road, the overwhelming
8 evidence is that there should be no pipeline constructed
9 on the Yukon north of the Porcupine River.

10 That, sir, is the substance of
11 our recommendations in dealing with the question of the
12 Yukon North Slope. In addition to the recommendations
13 I have there, sir, I refer you to the recommendation
14 under the caribou section found at page S6 which
15 states that if we are forced to consider a pipeline
16 routing in the northern half of the Yukon, that we
17 consider the routing south of the Porcupine River in
18 what has been called the Calef route.

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1 I would now like to turn
2 to the --

3 THE COMMISSIONER: Excuse me,
4 but Arctic Gas says that it wants to cross the Northern
5 Yukon either along the coast or through the interior,
6 has carried out extensive engineering and environmental
7 studies of both routes. It hasn't carried out any
8 engineering or environmental studies of the Calef
9 route. Now, although this Inquiry may be in a
10 position to indicate to the government whether a pipe-
11 line across the Northern Yukon if one is to go across
12 the Northern Yukon should go along the coast or through
13 the interior, the Inquiry isn't in a position to do
14 anything more with respect to the Calef route than
15 to say that it should be examined. The Inquiry is
16 in that position, I think, is it not?

17 MR. ANTHONY: Yes, Mr.
18 Commissioner, and I think we have consistently urged
19 that consideration of these alternatives, consideration
20 of the Calef route which has suddenly become respec-
21 table through the terms of this Inquiry, we have
22 consideration of the Fairbanks alternative. We are
23 not recommending that, we're not suggesting to this
24 Inquiry that we recommend that a pipeline follow either
25 of those routes. We are requesting this Inquiry to
26 point out the very dangerous situation that exists
27 if a pipeline were to be approved across the North
28 Slope and to point out to the government that there
29 are alternatives that must be examined, and suggest
30 to the government that the time exists and the

1 ability exists to examine these alternatives, and
2 that the consequences of not examining those alternatives
3 to go ahead are very severe. It is the request for
4 this further study that we urge most strongly on
5 you, sir, with respect to alternate routes.

6 THE COMMISSIONER: Well, the
7 problem Arctic Gas faces is that the United States
8 has passed and the Congress has passed and the
9 President has signed a Statute that provides for a
10 decision-making timetable that the Americans certainly
11 want to meet. I have made it clear from the beginning
12 that this Inquiry would not be conducted in haste in
13 order to meet the timetable that might be established
14 by the Americans; but at the same time here we are
15 on the last day or the second-last day of the Inquiry
16 and you are urging that Arctic Gas be called upon to
17 examine an alternate route that it seems to me unlikely
18 they could examine adequately from an engineering and
19 an environmental point of view in time to meet the
20 requirements laid down by the Americans, requirements
21 that are only significant so far as Arctic Gas is
22 concerned. They are not requirements that Foothills
23 has to meet because, of course, their pipeline is an
24 all-Canadian pipeline.

25 But I can see that from the
26 point of view of Arctic Gas that is in many ways an
27 unsatisfactory outcry. Presumably they would prefer
28 to have a "yes" or a "no" and so would the Americans,
29 rather than, "Why don't you take a look at still
30 another route?"

1 Well, anyway, why don't we
2 stop for coffee?

3 (PROCEEDINGS ADJOURNED FOR A FEW MINUTES)

4 (PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

5 THE COMMISSIONER: Right.

6 MR. ANTHONY: Mr. Commissioner,
7 I'd now like to address a few comments with respect to
8 the Arctic Gas cross-delta route alternative.

9 The proposed pipeline route
10 of the applicant, Canadian Arctic Gas, was amended to
11 include a lateral across the Mackenzie Delta. While
12 arguing that it is a more secure system in the sense that
13 it has less miles of pipe, Arctic Gas agreed that the
14 route would save approximately \$100 million and that
15 it was proposed because of its economic attractiveness.
16 It was also conceded that the original circum-delta
17 route was selected because it was deemed that the
18 Mackenzie Delta was initially a particularly sensitive
19 area. Evidence presented at the delta phase of the
20 Inquiry suggests that indeed the Mackenzie Delta is
21 a unique and sensitive environment and it is CARC's
22 view that the economic savings to the applicant must be
23 viewed as subordinate to the preservation and protection
24 of the Mackenzie Delta.

25 The amount and nature of re-
26 search conducted in the Mackenzie Delta region,
27 particularly in the Shallow Bay area, is inadequate
28 for a complete geotechnical or environmental assessment.
29 Problems of ice jams, ice scour, the nature and frost
30 susceptibility of soil along the Shallow Bay crossing

1 frost heave, are largely unresolved as they relate to
2 the delta.

3 It must be remembered that the
4 Mackenzie Delta region is subject to the cumulative
5 effects of not only pipeline construction, but the area
6 is also a staging and supply area, is affected by
7 Beaufort Sea drilling and other hydro-carbon explora-
8 tion and will be the centre of the gas-gathering and
9 processing facilities. Add to this the possibility
10 that a pipeline may be looped and these cumulative
11 impacts could result in a lengthy period of activity
12 within the critical areas of the Mackenzie Delta
13 region.

14 There are also significant
15 environmental reasons for opposing the cross-delta
16 route across Shallow Bay. Shallow Bay is literally
17 teeming with fish for five months from July to November,
18 and the Shallow Bay crossing will require summer
19 dredging. Although CAGPL has stated it will shut
20 down operations during the time that the beluga
21 whales come into the delta to calve, concern has been
22 expressed that such disruptions and noise could cause
23 depletions in the new-born populations. Fuel spills
24 or oil spills containment would be much more
25 difficult if the cross-delta route is built. Since
26 efforts to de-oil birds have proven unsuccessful in
27 other areas, there is a great threat to the populations
28 of snow geese and other waterfowl which use this area
29 during a critical period of their life cycle. Also,
30 any pipeline activity along the Yukon coastal route

1 may result in waterfowl, particularly snow geese,
2 moving into the vicinity of the cross-delta route
3 thus compounding the environmental impact.

4 I think, sir, in evaluating
5 the question of the Mackenzie Delta in particular it
6 is important to keep in mind the inter-relationship
7 between the Yukon North Slope and the Mackenzie Delta,
8 and also to keep in mind the critical question of
9 timing. You will recall that during the delta
10 phase of the Inquiry Mr. Williams on behalf of Arctic
11 Gas was asked about the construction time required
12 for Shallow Bay and the problem that he expressed about
13 the requests of Mr. Webb that the construction
14 schedule may require to be pushed back because of
15 the beluga calving in the spring, and the request
16 of Dr. Gunn that in fact the construction schedule be
17 pushed forward or curtailed earlier because of the
18 concern over snow geese.

19 We have in final argument
20 from Arctic Gas, they have really ignored that conflict.
21 They have submitted that there's no problem with
22 respect to the whales and they cite Mr. Webb, and
23 Mr. Webb said there's no problem provided in critical
24 times the construction schedule can be delayed to
25 allow the calving to take place. On the other hand
26 you have them saying, "It's O.K. with respect to the
27 birds because Dr. Gunn said that we'll be finished
28 by the time it's critical for the birds in the delta,"
29 yet ignoring the fact that he made those comments,
30 considering that the construction schedule not be

1 extended and so we have taken the best of both
2 worlds in the final argument, ignoring the critical
3 element of timing and the relationship between these
4 two best worlds.

5 The potential environmental
6 impact of the cross-delta route alternative is not
7 completely known, in our view, but on a basis of
8 the evidence to date it is the submission of CARC
9 that the pipeline should not be constructed across
10 the Mackenzie Delta. That, sir, is our recommendation,

11 (1) The proposed cross-delta alternative should be
12 rejected because of the need to preserve the whale,
13 waterfowl habitats of the Mackenzie Delta which
14 will already be heavily impacted by pipeline-related
15 and other hydro-carbon exploration activity.

16 (2) Immediate steps be taken to have the outer
17 Mackenzie Delta area set aside as a whale sanctuary,
18 to secure the protection of the reindeer population
19 of the delta, and to ensure that the existing sanctuary
20 for waterfowl is preserved and protected.

21 Sir, I refer you in particular
22 to the sections in our submission with specific
23 recommendations under the heading of "Marine Mammals",
24 page S-43 to 51, "Birds of the Mackenzie Delta,"
25 page S-56, "Waterfowl", page S-62 to 72, and a large
26 section dealing with "Fish", page S-81 to S-115.

27 I'd like to now address some
28 general comments with respect to the issue of land
29 use planning.

30 Many witnesses for this

1 Inquiry have expressed the need for long-range land
2 use planning in the Canadian north. The proper land
3 use plan must first determine the biological productivity
4 of an area, and the requirements necessary to maintain
5 and ensure the continuance of that productivity. It
6 must not only permit a society to determine whether and
7 where certain developments must take place, but it
8 must also permit that society to determine the pace of
9 development, both for the benefit of the biological
10 community and society itself.

11 Such a plan must deal with
12 the conflicting claims on the land for such purposes
13 as native hunting, fishing and trapping, National and
14 Territorial Parks, Wildlife Refuges, ecological reserves,
15 energy and transportation corridors, and mining and
16 hydro-electric development.

17 The elements of the land use
18 plan can only be developed through northern-based
19 research because research results from the south cannot
20 simply be translated to the north. Even in the south
21 it has taken 75 years to learn how to restock salmon,
22 and a similar lead time can be assumed to be necessary
23 to properly understand the intricacies of the northern
24 fishery resource. Many of the environmental witnesses
25 emphasized the need for an overall program for the
26 protection of the fish resource as the only real way
27 to ensure environmental protection. The same imperative
28 applies towards protection of the caribou, waterfowl, and
29 various other species.

30 Unless such an overall plan

1 is prepared well in advance of any major development,
2 critical habitat could be usurped by the development
3 project with the result that any program would be
4 prohibitively expensive, if possible at all. A land
5 use plan must be dynamic because there will be a
6 continuing need to modify the plan as new knowledge
7 becomes available and as new uses become defined.
8 Therefore the planning process is as important as the
9 plan itself.

10 One important element in the
11 development of a land use plan is identification of
12 special areas. Areas of particular significance in
13 the Canadian Western Arctic have been identified by
14 CARC in the sections under the Arctic International
15 Wildlife Range, the I.B.P. sites and the various
16 sections dealing with specific species where critical
17 or essential habitats have been isolated. Having
18 identified these critical areas, whether critical habit,
19 areas for rare and endangered species, potential
20 recreation or park sites, archaeological sites, or areas
21 of unique or scenic value, the next step is to build
22 them into the land use plan.

23 The wilderness concept itself
24 is also an important element of such planning. The
25 need to protect wilderness areas and the wilderness
26 values must perhaps be spoken to in emotional terms
27 as well as ecological terms. As environmentalists
28 and as Canadians we have a responsibility to ensure
29 that there are some areas of our nation that remain
30 as wilderness. Not only is it important to ensure

1 that there remains an unspoiled ecological unit to
2 preserve and protect a way of life that has developed
3 over thousands of years, but it is important as a
4 concept within the Canadian heritage.

5 Canadians have viewed their
6 country as evolving out of a vast wilderness, yet we
7 are fast approaching the last chance for authentic
8 wilderness areas. Most discussions relating to the
9 protection of a wilderness invariably centre around
10 the Yukon north of the Porcupine River. Because of
11 the proposed Wildlife Range, the unique ecological
12 components of the area, and the fact that the area
13 is largely undisturbed, it becomes a prime candidate
14 for designation as a wilderness area.

15 That, sir, is one of the
16 recommendations we urge upon you.

17 Both applicants argued that
18 present wilderness areas, which they define as meaning
19 untouched, unspoiled, or untrod upon areas, should be
20 protected and disturbance of these areas should be
21 minimized. The applicants should be required to provide
22 more specific information on the impact of a project
23 created merely by increased access. The challenge is
24 to ensure that the frontier and wilderness heritage
25 is not lost sight of in the examination of detailed
26 environmental impact.

27 THE COMMISSIONER: Excuse me,
28 Mr. Anthony, how would that help us? You say the two
29 companies should be required to provide more specific
30 information on the impact of their project created

1 merely by increased access. Now, we heard from many
2 witnesses who said that access by man is likely to
3 create greater impact than the construction of a gas
4 pipeline, or even an oil pipeline; but aren't we
5 asking these companies to do something that lies
6 quite beyond their competence? Isn't it a matter of
7 judgment, taking all these matters into account and
8 trying to foresee as best one can what will happen?
9 What use would it be to have these two companies
10 go out and hire more consultants and present us with
11 another ton and a half of paper that with respect to
12 you and with respect to the companies, would not get
13 us any farther than our own capacity to foresee events
14 in the light of all the evidence we've heard?

15 That, it seems to me there's
16 a limit to what you can do in the realm of predicting
17 cumulative impact. That's the problem, and we simply
18 have to try to foresee what the course of events
19 may be and to predict the impact that will accompany
20 those events.

21 I think we have gotten all
22 the assistance that we can reasonably expect from
23 Arctic Gas and Foothills, and I really don't think it
24 lies within their capacity or within the capacity of
25 anybody that they might hire to assist us further. I
26 maybe wrong in that, but I can't imagine that there
27 is any expert who is going to be able to tell us
28 what the impact of increased access will be in a way
29 that will take us beyond what our own capacities enable
30 us to predict in that regard, as the evidence stands now.

1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30.

MR. ANTHONY: Well, Mr.

Commissioner, I agree that the question of access, whether it should take place or should not, is a matter of government policy, and you will note in our recommendation No. 5 we suggest that the question be a matter of government policy to determine what access should be permitted and so on.

THE COMMISSIONER: What you're saying is once you open the wilderness up to a gas pipeline, you are in a sense determining the question of access for all time.

1 Well, we're suggesting that the
2 information we need to know is really not only what
3 the pipeline companies will do, but what effect it will
4 have on access. Now, there is maybe disagreement as
5 to whether that access is good or bad and we suggest
6 that's a question for the government to decide. What
7 I am suggesting is that we still don't have very much
8 evidence to tell us what will happen when the supply
9 road from the Dempster to the interior route, for
10 example, if that is left in place or if it's replaced;
11 and if it's taken out, how long should it remain there
12 and what will be the effect merely of that road.
13 Dealing with the question of access, by just allowing
14 people to come in.

15 What is the anticipated impact?
16 Is that going to result in increased hunting and is
17 it going to result in travel up from the south and
18 so on? That's the sort of information that I suggest
19 is important to know.

20 THE COMMISSIONER: Well, that
21 is something that they're not in a position to tell
22 us anything worthwhile about, it seems to me. That's
23 a matter, with respect, to which we have to make up
24 our own minds.

25 MR. ANTHONY: I agree with that
26 element, sir. I still suggest though that the question
27 of access itself irrespective of the particular problem
28 or the particular job that they propose to do is an
29 important impact of the pipeline and I agree that--

30 THE COMMISSIONER: Oh, yes.

1 MR. ANTHONY: --it's up to this
2 Inquiry to assess what the impact will be and whether
3 it's a good impact or a bad impact. I'm suggesting
4 that from the information presented in our view there
5 still isn't sufficient attention directed to just the
6 question of impact in the information that's been
7 presented.

8 We suggest that that is a gap
9 in the evidence that was presented, in our view; that
10 there hasn't been sufficient attention placed on merely
11 their view as to what the impact will be.

12 In many respects, Mr.
13 Commissioner, this Inquiry can be regarded as the
14 initiation of a planning process for the Mackenzie
15 River Valley and the delta though we suggest that it
16 is starting from the wrong perspective. Ideally,
17 planning should start with a clean slate, whereas this
18 Inquiry is forced to begin from the restricted view-
19 point of where to build a gas pipeline.

20 In fact, the route selection for
21 a gas pipeline, with its implications of a de facto
22 transportation corridor, is of fundamental importance
23 for the planning of the region. Just as selecting the
24 pipeline route destroys freedoms and options for a
25 land claim settlement, so does it take away land use
26 options. Ideally, the selection of a route for a
27 gas pipeline should proceed only after a long range
28 plan has been developed and only in accordance with
29 that plan.

30 The recommendations we make to

you, sir, are as follows:

- 1) That any further consideration of the routing of a pipeline or of any other major transportation facility, should be postponed until appropriate land use planning procedures have been established for the Yukon and Northwest Territories and long range land use plans have evolved. Elements of that plan would include an inventory identifying special areas and appropriate legislation design to ensure their protection.
- 4) All that area north of the Porcupine River in the northern Yukon should be declared a wilderness area and appropriate legislation should be passed by the Government of Canada to provide for and declare a wilderness status for that area.
- 5) One of the responsibilities of the pipeline authority would be to control the use or further construction of access roads following construction of the pipeline. This task should be undertaken by the Government of Canada since the question of access and opening up of specified areas should be a matter of public policy and not an issue to be left to the pipeline companies.
- 6) Access into an area and development of recreational potential of the area should be postponed a few years after completion of construction. This would decrease the cumulative impact on the environment and would allow new administrative techniques, advisory and supervisory techniques to be employed and a larger research base to ensure

1 a more integrated and effective control over
2 impact.

3 Mr. Commissioner, the Canadian
4 Arctic Resources also directed evidence to this
5 Inquiry on the question of implementation and authority
6 and that's found on page 56 and I intend to just read
7 a few sections of that, since that is quite recent
8 evidence.

9 Effective implementation of
10 environmental stipulations will be attained only if
11 requirements are viewed from the beginning as an
12 integral part of the construction scheduling operations
13 rather than on something imposed from outside.
14 Therefore, it is not sufficient to write these
15 stipulations into the terms of right-of-way agreements,
16 certificate of public convenience and necessity, land
17 use permits, water licenses, or regulations such as the
18 Territorial Land Use Regulations or the Gas Pipeline
19 Regulations.

20 Government responsibility does
21 end with the prescribing of environmental do's and
22 don'ts since contractors must not be permitted to
23 independently determine the degree to which they and
24 their sub-contractors will ensure full compliance and
25 the extent to which operating crews will be trained
26 and mandated to carry out environmental protection
27 procedures.

28 We have also suggested, sir, that
29 the existing administrative machinery in the Territories
30 is both inadequate and inappropriate to properly super-

1 vise construction of the proposed pipeline and ensure
2 compliance with environmental stipulations.

3 It is, therefore, recommended
4 that responsibility for all relevant regulatory
5 functions be assigned to a totally independent single
6 authority and that the pipeline-related powers of all
7 federal and territorial departments and agencies be
8 delegated to it. This authority should be assisted
9 by a third party contractor who would assist in a
10 design review process and follow-up. Such system
11 would result in the most efficient implementation of
12 all the environmental stipulations identified by this
13 Inquiry, the National Energy Board and other
14 contributing agencies.

15 The only other point I would
16 bring to your specific attention, sir, is the
17 recommendation number 13 dealing with the implementation
18 authority which recommends the creation of an
19 ombudsman and you heard the evidence of the CARC panel
20 on the operation of that.

21 In summary, Mr. Commissioner, and
22 I'll try to be brief, we suggest to you that on the
23 basis of all of the evidence you've received at this
24 Inquiry over the length of this Inquiry, that upon a
25 review of all the evidence you cannot report to the
26 Canadian government that a pipeline can be built now.
27 It may be contrary to the American timetable, as you've
28 indicated, Mr. Commissioner, but the Americans do have
29 alternatives and the Americans have settled their land
30 claims; and in any event, the environmental implications

1 are most direct in the Canadian portion of the route.
2 I submit, sir, that the challenge to this Inquiry and
3 to the challenge to the Government of Canada is that
4 they consider the Canadian interest and they establish
5 a Canadian timetable, and in that timetable perhaps,
6 in our view we submit, the Arctic Gas proposal cannot
7 proceed in the timeframe that they have established.

8 In closing, I'd just like to
9 make two personal comments, if I may. First I'd like
10 to pay a personal tribute to Dr. Doug Pimlott who was
11 the first chairman of the Canadian Arctic Resources
12 Committee and the Director of the Northern Assessment
13 Group. Dr. Pimlott has continually given his all to
14 this Inquiry through his tireless efforts to assist
15 CARC and COPE and the other participants in meeting
16 the challenges that you have placed on us in
17 participating in this Inquiry.

18 You've all relied on him and
19 he's never let us down. We appreciate his help and
20 his counsel. I know he would desperately want to be
21 here today. We can report that Dr. Pimlott is making
22 a satisfactory and as he has taught us so often over
23 the last two years, a very spirited recovery and he
24 sends to you, sir, his personal greetings.

25 I did want to close, sir, by
26 directing a few personal comments to you. I found this
27 a very difficult thing to do. Our appreciation for
28 your fairness and your understanding have been
29 eloquently expressed by others in words and brownies
30 and in books, and we echo these sentiments, but I also

1 have a particular tribute to pay to you, sir, and to
2 this Inquiry.

3 This Inquiry is unique in many
4 ways, but the opportunity that it has provided for the
5 people to participate may be the legacy that will mean
6 the most. You've invited, but what is more sir, you have
7 nurtured public participation through community
8 hearings, through C. B. C. broadcasting, through
9 funding of public organizations such as our own.

10 We have responded, I hope, to
11 your challenge in a way that has been both responsible
12 and productive. Sir, this Inquiry has succeeded. It
13 has tackled many of the most difficult questions
14 facing Canada today. How we respond to these challenges
15 will, as you have pointed out to us, tell us a great
16 deal about ourselves as Canadians.

17 The fact that this Inquiry with
18 this extensive public involvement has succeeded provides
19 a precedent. If we can deal with these far-reaching
20 issues in the Mackenzie, surely we can accommodate
21 informed public discussion affecting various other areas
22 of our lives. I note with interest the cry for a
23 Berger-type Inquiry in Ontario and they're looking at
24 the Reed Paper crisis and in British Columbia they
25 look at the Kitimat pipeline, and don't panic, sir,
26 I don't think they necessarily mean that you should
27 chair it.

28 But I think what they are
29 requesting is that the elements of fairness and openness
30 that you have brought to this Inquiry.

When Canadian Arctic Resources Committee appeared before you at the opening of this Inquiry, we asked you to open a window on the North. You have done this and what is more you have given us the eyes to look through the window to see the real issues facing Canada.

For this, sir, the Canadian Arctic Resources Committee and the Northern Assessment Group and all those associated with it thank you and wish you well in your deliberations leading to final design . Thank you, sir.

THE COMMISSIONER: Thank you,
Mr. Anthony. Ladies and gentlemen, it's 12:00 and I have
a note that the class picture is to be taken now. I
take it that is in front of the hotel, is it? Indoors.
Well, Mr. Scott, is it all right if we have the class
picture taken now and then we could adjourn until say
1:00 which would give us time, would it not, to hear
all of the three native organizations that still remain
to be heard?

MR. SCOTT: I would hope so, sir.
About the class picture, perhaps we should ask if Mr.
Genest is ready. I don't know whether--

MR. GENEST: I need sunglasses.

I don't know if Mr. Scott reported to you that the reason that I was late this morning is because of my noble efforts last night to settle this whole matter without involving your Lordship further, as we say in Court, but I was not successful.

THE COMMISSIONER: Well, it sound

1 as if it was a valiant attempt.

2 MR. SCOTT: Could we adjourn
3 until two o'clock, sir? There's some other matters.

4 THE COMMISSIONER: Before we
5 adjourn, where is this class picture to be taken?

6 MR. SCOTT: I don't know.

7 THE COMMISSIONER: Pat Scott,
8 you better tell us what happens next. All right, do
9 you want me to sit here? All right. Let's just sit
10 here and think about the events of last evening.

11 (PROCEEDINGS ADJOURNED TO 2:00 P.M.)
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(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

MR. SCOTT: Mr. Commissioner, the next submission will be made by Mr. Veale, counsel for the Council of Yukon Indians.

MR. VEALE: Mr. Commissioner, just before beginning, I have a copy of a letter to yourself from Daniel Johnson, the chairman of the Council for Yukon Indians simply stating the fact that the evidence presented by Mr. Elijah Smith of the C.Y.I. several months ago is no longer the position of the council, and I file that as an exhibit.

THE COMMISSIONER: All right, that will be marked as an exhibit.

(LETTER FROM D. JOHNSON MARKED EXHIBIT 901)

MR. VEALE: Mr. Commissioner, you have asked that we provide comment on the nature and the extent of the land claims of the Council for Yukon Indians and the people of Old Crow, and I will begin with the Council for Yukon Indians land claims principle.

This particular piece was written for another purpose, but we have incorporated it into our argument. The objective of the Yukon Indian people as stated in our position paper,

"Together today for our children tomorrow," is to obtain a settlement of our claim that will help us and our children to live in a changing world. The very essence of our claim is the survival of our people and our way of life. A just settlement will guarantee our survival and provide a means by which

1 we can control our future. Our people have many deep
2 feelings about our land and about the future of
3 Indian people. Our philosophy remain as part of
4 this land may help explain why we as owners of this
5 great land are so opposed to the building of a pipeline
6 before our claims are settled and implemented.

7 Our claim is based on the
8 traditional philosophy of our people, it expresses
9 an intention to keep our values and to secure a
10 political and economic base from which the Indian
11 people could mutually progress with the rest of
12 Canadian society. With just settlement of our
13 claims, we feel we can participate as full citizens
14 of this country and that we will be able to live and
15 work together with the rest of Canadian society.

16 A full appreciation of our
17 value for land and its accompanying cultural values by
18 the Canadian people, and especially by the government
19 people is a precondition for a successful settlement.
20 Traditional rights are the most important ingredient
21 of northern life and their preservation by our people
22 is our principal interest. Therefore, a very important
23 point for government to understand is that land
24 settlement to be considered meaningful to the Yukon
25 Indian people must be a settlement which has its
26 foundation in our traditional concept of land owner-
27 ship.

28 Further, the settlement must
29 provide for the changing needs in the future, namely to
30 conclude a general agreement as to the future steps

1 required so that orderly progress can be made until
 2 we are finally in a position to manage our affairs
 3 without program-tied direction from the Federal
 4 Government. To meet our goals it has always been the
 5 design of the Council for Yukon Indians to work
 6 together with the Federal Government to jointly design
 7 a settlement which will guarantee for our children
 8 the right to choose the kind of future they may want.

9 A settlement which will provide
 10 a general economic, political, social, cultural frame-
 11 work within which our people will be able to control
 12 our way of life; land claims settlement to our people
 13 is not just a compensation for or the return of our
 14 land but the democratic right to determine what
 15 happens in our land.

16 The Council for Yukon Indians
 17 believes that it should be the prerogative of the
 18 Indian people to decide whether they wish to move
 19 into white society and live under government rules
 20 and regulations, or whether they wish to remain on
 21 Indian land under local laws. Only in this way can
 22 the Indian people feel that they have a choice and
 23 an opportunity to be equal to the white man. Under
 24 settlement, Indian people will retain certain lands
 25 in which they shall have complete government control
 26 subject only to the sovereign rights of the Government
 27 of Canada. The lands which are retained by the
 28 Yukon Indian people shall be controlled by a
 29 municipal type government structure at the community
 30 level and such necessary control structure as is

1 required so the local organizations will be able to
2 effectively function.

3 The concept of the Council
4 for Yukon Indians is that the local community will
5 have its own government structure much like the
6 present municipalities in the Yukon Territory except
7 that it will not be subject to amendment by the
8 Yukon Territorial Government.
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1 It will have the right to carry
2 out all municipal functions including administration
3 of schools, welfare, policing and local judicial
4 system on Indian lands, child adoption of their
5 people, road building, zoning and general regulation
6 by local bylaws.

7 To complement this concept,
8 participation of all agencies which make pertinent
9 decisions on land usages is required in order to protect
10 Indian traditional rights of hunting and fishing. On
11 certain lands the Indians shall have the exclusive
12 right to carry on their traditional pursuits which
13 shall include huntings, fishing and trapping. Although
14 the title to this land may remain with the Government
15 of Canada, no other activity may be carried on without
16 the consent of the Indian people.

17 The objective of the Indian
18 people is to have the choice to take part in development,
19 not take part, or stop development. If Indian people
20 wish to take part in development, they must play an
21 important part in the development. The Federal
22 Government must accept the fact that we must participate
23 in the planning of the future of this land, and in
24 doing so, we determine the character and the rate of
25 development.

26 We want to take part in
27 development in the North on terms which are acceptable
28 to Indian people. We are confident that given our
29 Indian culture and the tools of the white society
30 we can learn to develop as citizens capable of

1 contributing to Canadian society. In conclusion, the
2 underlying principle is that our people must be
3 allowed to move back to the land where we would be
4 free, independent and comfortable with the way of life
5 we know and understand.

6 A fair settlement will allow us
7 to participate in every part of the economic life of
8 the Yukon and yet guarantee us the preservation of the
9 values of our religion, our philosophy and our Indian
10 way of life. Now, I turn next to the extent of the
11 Old Crow land claim, Mr. Commissioner.

12 The area which has been
13 traditionally used by the Loucheux of Old Crow has
14 been very extensive, extending outside the Yukon
15 Territory borders in many areas. However, for the
16 purposes of this settlement, it shall be considered
17 to comprise all of the Yukon Territory north of the
18 65th degree parallel and bordered by the Northwest
19 Territories -Yukon border on the east, and the Alaska-
20 Yukon border on the west and the Beaufort Sea on the
21 north.

22 This area is presently
23 inhabited only by Indian people with ancestral rights
24 in the Yukon, except for a very small number of
25 government service personnel and a very few non-Indian
26 people not in government employment. I might add that
27 the land in question is much more susceptible to
28 permanent change and damage due to disturbance than
29 anywhere else in the Yukon Territory.

30 For these reasons, there are

1 different social, economic and political implications
2 to consider on behalf of the Old Crow people than for
3 other Indian communities in the Yukon Territory. I
4 turn now, Mr. Commissioner to the Old Crow land claim
5 principles.

6 The fundamental objective of the
7 people of Old Crow is to obtain control over their
8 lives and their lands. The evidence at Old Crow
9 demonstrates that for at least 1,000 years the people
10 of Old Crow have lived in harmony with the Porcupine
11 caribou herd and have used the land of the northern
12 Yukon from the southern drainage of the Porcupine
13 River to Herschel Island in the north. The people of
14 Old Crow do not distinguish between social, economic
15 and environmental aspects of their existence.

16 For them, the pursuit of their
17 livelihood, whether it be by using the caribou corrals
18 still in evidence, or hunting caribou by modern methods,
19 the effect is the same; and that is, that they are
20 at one with the wildlife they require to survive.
21 Caribou are the fundamental component in this survival.
22 The first principle then, Mr. Commissioner, is that
23 the Porcupine caribou herd, the essence of the Old
24 Crow way of life, must remain in existence under the
25 stewardship and protection of the people of Old Crow.

26 For the people of Old Crow
27 trapping and primarily ratting is the economic mainstay
28 which has the cultural integrity of Old Crow and provided
29 an economic bridge with which the people of Old Crow
30 can function and interact with the outside world on their

1 own terms. The ratting season of March to June on
2 Old Crow Flats is a major cultural event as well. The
3 people of Old Crow in their evidence before this
4 Inquiry often referred to the Crow Flats as their
5 bank or freezer. In the spring when food supplies are
6 getting low, Crow Flats is always at their doorstep
7 with an abundant supply of food and fur.

3 The second principle then, Mr.
9 Commissioner, is that the drainage basin of the Old
10 Crow River which encompasses Old Crow Flats be
11 preserved for the exclusive in perpetuity for the
12 people of Old Crow and that these lands be withdrawn
13 from future development and remain in effect as their
14 bank. The people of Old Crow have been managing and
15 administering their affairs in harmony with their
16 environment since the times of Kloo Kut. They
17 have been able to retain these functions in the present
18 day settlement.

1 They see these functions as
2 being fundamental to their ongoing existence and
3 well-being of their people, the community, and their
4 culture.

5 The third principle then, Mr.
6 Commissioner, is that the people of Old Crow have the
7 powers to control their way of life and the environ-
8 ment within which they exist.

9 I'd now like to turn to the
10 aspect of prejudice that we claim will result if the
11 pipeline is constructed ^{before} this land claims settlement
12 is implemented. It is against the backdrop of these
13 three principles that we submit that a pipeline will
14 prejudice the land claims position of the Old Crow
15 people. That prejudice is manifested firstly by the
16 fact that the development poses potential conflicts
17 with the first principle. The first principle was that
18 the Old Crow caribou herd must remain in existence
19 under the stewardship and the protection of the people
20 of Old Crow. We do not feel that this can be
21 guaranteed by Arctic Gas. Furthermore, we do not feel
22 that this can be guaranteed under the corridor
23 concept.

24 In addition to this, we feel
25 that subsidiary development such as the Dempster
26 Highway and Beaufort Sea exploration could also
27 impinge upon the integrity of the herd. The people
28 of Old Crow fear a development could destroy the
29 herd and are on that basis opposed to it. There has
30 also been considerable evidence presented to this

1 Inquiry which casts doubt on the ability of the
2 applicant to ensure the integrity of the herd.

3 That prejudice is manifested
4 secondly by the fact that the pipeline development
5 clearly runs contrary to the aspirations of the people
6 of Old Crow, and is so inconsistent with these
7 aspirations that it will either alienate people from
8 the development, or potentially alienate people from
9 the land. The people of Old Crow have expressed
10 concern that the impacts would change the nature of
11 the way in which they utilize the land and the nature
12 of the way in which they view the land, and also that
13 the impacts would change the nature of the community.

14 A heart of this concern is
15 Old Crow Flats, and the ratting activities on Old
16 Crow Flats.

17 The second concern which
18 continually presses at the people of Old Crow is the
19 demands for oil and gas exploration activities to be
20 conducted on the Old Crow Flats area. Within the
21 corridor concept proposed by the Federal Government
22 it can be clearly anticipated that exploration
23 activities adjacent to the pipeline would be accelera-
24 ted and encouraged. It is the fear of the Old Crow
25 people that this exploration will commence again on
26 the Old Crow Flats. These concerns clearly prejudice
27 that second principle.

28 Thirdly, that prejudice is
29 also manifested by the fact that the development that
30 goes before land claims goes contrary to their

1 fundamental aspirations of settling a claim before any
2 major developments occur. The scale and size of this
3 project and features which are not directly attributed
4 to the project would make their presence felt in
5 Old Crow as well. This could be represented by increased
6 government activity, and increased private agencies
7 involved in Old Crow. It is viewed by the people
8 of Old Crow that the pipeline development would result
9 in an increasingly large and insensitive white frame-
10 work being placed on the community.

11 The people of Old Crow have
12 also expressed fear that such a development would
13 alienate people from their traditions and their culture.
14 They see such an alienation having the effect of ruin-
15 ing their possibilities of determining their own
16 affairs. In this sense these concerns and the implica-
17 tions of development prejudice the third principle
18 of their land claims.

19 The pipeline is seen by the
20 people of Old Crow as something more than a prejudice
21 to their land claims. It is seen as a prejudice to their
22 very existence. It is at this point that a person
23 must understand who and what the people of Old Crow
24 are before they can appreciate both the intensity of
25 their feeling and the meaning behind it. The people
26 of Old Crow have a culture which is distinct and
27 vibrant when contrasted with other North American
28 cultures. The people of Old Crow have made many
29 adaptations over the years, but have retained the
30 essence of their own distinct pattern of culture.

1 I turn now to some overview
2 subjects, Mr. Commissioner, and the first being social-
3 cultural impacts.

4 The culture of the people
5 of Old Crow is considerably more than the outward
6 manifestations that are readily visible to the visitor
7 to the community. Culture is the sum total of
8 individual and group patterns of life. It is more
9 than hunting and trapping, the social groups and
10 social community functions. Culture is embodied in
11 the mind of an individual. It is embodied and developed
12 in a training process, a large portion of which is
13 neither set out explicitly by the individual nor
14 taught in a conscious manner. Such things as alcohol
15 consumption, family disintegration, and other negative
16 characteristics have been cited as an indication that
17 Indian culture is dying. The whole notion of death
18 of a culture is questionable at best. Cultures are
19 not static, they transform from generation to generation
20 and have tremendous adaptability.

21 When one considers how people
22 change and are changed the notion of rate of change
23 and the values which have changed must be considered.
24 These things must be considered in more than the
25 way in which they affect economic practices of people
26 or some particular social aspects of the people, or
27 how they alter the history of the people, or how they
28 may rearrange the patterns of social organization.

29 Predictions must also encompass
30 not just the physical world of people but also the

spiritual world. It is in this sense that the statements of many people in Old Crow about concerns they feel in relation to the development of a pipeline in the Northern Yukon must be considered. These concerns are expressed by way of some specific changes that are anticipated to their environment, but they are also expressed in terms of the fears of how these types of development will alter the ways in which people think about the world around them.

The question is not one of specific environmental impacts or specific social impacts, but rather how the construction and development of a pipeline as a whole will affect ways in which people spiritually perceive their world. The implications embodied in this view of culture are that a simple assessment of what is happening today in terms of material culture, what is happening today in terms of a variety of social indicators, is neither an adequate nor sufficient source of information upon which to base a justification or rationale for developing pipelines. While many of these aspects of culture are not explicit, even to those who are familiar with the culture, it does not mean that they are not known.

The implication of this is that in order for things to be appropriately adapted to culture the rate of development and rate of change or the very rate at which things are accepted and incorporated must be ordered and established by the people of that culture.

1 If a pipeline is constructed
2 without these conditions being fulfilled, then it is
3 reasonable to anticipate the number of impacts upon
4 the culture. These impacts will extend beyond those
5 aspects that are readily measureable such as alcoholism,
6 criminal offences, deaths, increased mortality, increased
7 suicide and many other of the rather negative functions
8 that have been attributed to the large-scale developments
9 of this order.

10 But there will also be another
11 set of impacts which are less measureable and possibly
12 have greater long-term effects. These are impacts
13 that occur in the ontological or in other words the
14 metaphysical sphere. The whole question of identity
15 and of social sanctions are the fundamental issues of
16 impact. With this, one can see the perception of the
17 environment and how development alters perception of the
18 environment. The issue is complex and difficult to
19 understand for the visiting social scientist of a
20 different culture.

21 Problems are enormous in
22 magnitude. They transcend his ability to understand
23 many of the complicated relationships and they also
24 transcend his ability to understand or follow how the
25 more apparent manifestations of culture are linked
26 together with the more spiritual manifestations.
27 These are areas which the people of Old Crow have kept
28 largely to themselves. They are not topics of open
29 discussion i.e. their beliefs
30 and value systems. It is the concern for these types

1 of things which are the very core of being a person
2 from Old Crow and explains why Old Crow people speak
3 so strongly about their history, their life and the
4 future of their children in an attempt to preserve the
5 integrity of their community.

6 Mr. Commissioner, I'll move
7 now to the relationship of the Porcupine caribou herd
8 and the Dempster Highway and we are concentrating on
9 this particular issue because of the relationship of
10 the Old Crow people with the Porcupine caribou herd.
11 I would also add that the Fairbanks corridor involves
12 the possibility of a Dempster lateral and to the
13 same extent we are concerned.

14 Much has been said during the
15 course of this Inquiry about the unsurpassed wildlife
16 spectacle of the Porcupine caribou herd. This wildlife
17 spectacle is of itself worthy of preservation but the
18 case becomes of paramount concern in the light of the
19 economic and cultural relationships between the herd
20 and communities such as Old Crow. In the same way that
21 pipeline engineers do not have all the answers, the
22 caribou biologists are, by their own admission, in the
23 very early stages of understanding the caribou
24 phenomenon. The evidence that this Inquiry has heard
25 about the drastic decline in the numbers of the north-
26 west or Arctic Slope caribou herd in Alaska is
27 extremely disturbing in that the caribou biologists
28 are unable to formulate a management response simply
29 because the factors causing the decline cannot be
30 adequately identified.

In the context of the Porcupine caribou herd the pending completion of the Dempster Highway without adequate study either by the various government authorities or the Arctic Gas creates a serious concern about the well-being of the herd. All the evidence of this Inquiry indicates that the potential impact of the Dempster Highway far outweighs the potential impact of a gas pipeline. However, this is particularly true with the interior route where the combined impacts of the two developments may cause a severe decline in the population of the herd which will have serious cultural, and economic consequences for the people of Old Crow.

The Arctic Gas wildlife consultants did not conduct any studies upon the Dempster Highway and spent very little of their time in that area. However, they admitted that uncontrolled traffic and access along the Dempster Highway could potentially prevent the Porcupine caribou herd from reaching one of its major wintering grounds.

Several seasons of research and studies will be required before there is a proper management response formulated with respect to the Dempster Highway. If the interior route were to be approved, the problem would be compounded as the three access roads to the interior route from the Dempster Highway create further interaction with the caribou herd and also opens up the entire region between the Dempster Highway and Old Crow and the Porcupine herd to general human access.

1 One of the major disputes between
2 the various caribou biologists was over the relative
3 importance of the caribou migration and caribou calving.
4 We submit that the weight of evidence indicates that
5 calving is the most susceptible caribou activity because
6 any disruption of it results in direct declines in the
7 population of the herd. Disruption of migration, on the
8 other hand, could not only lead to caribou mortality
9 but could also dictate different use and less optimum
10 use of wintering ranges.

11 What is important, however, is the
12 view shared by all caribou biologists that more
13 specific demographic research be carried out. The
14 suprising fact is that caribou research has come to a
15 halt now that Arctic Gas has prepared its study and is
16 awaiting permission to construct a pipeline. Without
17 the further demographic research being carried out
18 well in advance of the pipeline construction, we submit
19 that the Porcupine caribou herd may face the same
20 problem confronting the northwest caribou herd in
21 Alaska and also the 40 mile caribou herd.

22 Without the completed research
23 and study, it will be impossible to isolate the factors
24 contributing to any declines and thereby resulting in
25 an appropriate management wildlife response. Further-
26 more, the failure to isolate the cause of this decline
27 in Alaska reinforces our view that a pipeline should
28 never be constructed across the northern Yukon.

29 Mr. Jackimchuk on behalf of
30 Arctic Gas consortium holds the opinion that migratory

movement is the key factor in the survival of the herd. As we have stated above we submit that the activity on the calving grounds and post-calving aggregation is the most important aspect because it directly affects the reproduction of the herd. The list of advantages and disadvantages of the prime and interior routes in the evidence of Mr. Jackimchuk fails to take into account the opinion expressed by Dr. Bergerud that the migratory urge is so strong that the unavoidable interaction feared by Mr. Jackimchuk may not necessarily result in the depletion of the herd.

1 However, it is clear that
2 the interactions may detrimentally affect the ability
3 of the people of Old Crow to obtain caribou meat during
4 the fall, winter and spring. Further, the interior
5 route has the great disadvantage from a corridor
6 aspect of having an above-ground oil pipeline
7 intersecting all the seasonal migration routes. Also,
8 the requirement of an all-weather permanent road in
9 order to construct an oil pipeline would be disastrous
10 not only for the Porcupine caribou herd but for the
11 people of Old Crow as well. We submit that Mr.

12 Jakimchuk's list of advantages and disadvantages did
13 not take into consideration the fact that the Dempster
14 Highway and the three access roads to the interior
15 route impacts not only the wintering range south of
16 the Dempster Highway, but the entire wintering range
17 between the Dempster Highway and the interior route.
18 In other words, the transportation infrastructure
19 required to haul pipe and pipeline facilities must be
20 taken into account. We also submit that all the
21 other subsidiary developments such as mining and
22 increased activity in the Eagle Plains Basin and
23 the possibility of an oil pipeline must be taken into
24 consideration.

25 However, the entire concept
26 of adding the natural impacts plus the man-made impacts
27 cannot be fully understood in any event because the
28 present research conducted over a short time span has
29 not provided the results to fully understand the natural
30 dynamics of caribou population and movement.

We note Mr. Jakimchuk's stated preference for the prime route is made in the light of his admission that he has less confidence in making comments about the interior route because of the degree of unpredictability regarding impacts upon caribou and other mammals. Based upon the evidence of the other caribou biologists that the prime route is not preferable, we submit good reason exists for no pipeline routing in the Northern Yukon in either of the prime or interior routes. The likelihood of miscalculation and catastrophe is great and we would prefer to err on the side of caution.

The international aspect of the Porcupine caribou herd also dictates that no pipeline development take place. The lack of any meaningful restrictions on the hunting of caribou in the State of Alaska and in the Northwest Territories as compared to the more regulated Yukon caribou hunting, suggests that the Porcupine caribou herd may be in a precarious position at this date. Until the research of the Porcupine caribou herd can be more conclusive with respect to behaviour patterns, and population dynamics, the added impacts of a gas pipeline, an oil pipeline and an all-weather road are too critical to be permitted.

If the herd were reduced to a size similar to the 40-mile herd, it is all well and good to say it could be nurtured back to a healthy size. But in the meanwhile, people of Old Crow could die culturally and economically.

1 I turn now, Mr. Commissioner,
2 to regional economic problems that we have outlined
3 with respect to this development.

4 It has been stated by Arctic
5 Gas that the Mackenzie Valley economy is in an unde-
6 veloped state and would benefit from the construction
7 of a natural gas pipeline. In fact Arctic Gas
8 positively states that without the stimulus of the
9 pipeline construction the Mackenzie Valley region is
10 going to fall into an economic depression. We disagree
11 with this assumption on two grounds:

12 (1) The statement makes the explicit assumption that
13 if the development comes, the people of the Mackenzie
14 and especially the Indian people will obtain benefits
15 from the pipeline.

16 (2) The statement assumes that the trend in the
17 valley is toward wage employment and that those who are
18 not in fact in wage employment at this time are in a
19 depressed state.

20 (3) The statement implies that there will be a major
21 long-term employment and economic benefits which will
22 accrue to the region.

23 We submit that the native
24 people of the Mackenzie Valley and Northern Yukon
25 will receive only marginal benefits in terms of
26 short-term wage employment, but will pay heavily in
27 terms of social costs and cultural dislocation. The
28 basic values of pipeline proponents in the Indian
29 communities are so diametrically opposed that no
30 adequate cost benefit analysis can be successfully

1 applied. Furthermore, the expressed view that the
2 Mackenzie Valley is in a state of depression may be
3 applicable to the non-native communities, but can
4 hardly apply to native communities along the river.
5 The view assumes an either/or condition in which native
6 society either follows a purely traditional way of
7 life, or turns to a purely wage employment way of
8 life. Evidence from Old Crow and other communities
9 in the Mackenzie Valley shows that adaption is taking
10 place in that wage employment and hunting and fishing
11 and trapping coincide together.

12 The man-land ties are not
13 disappearing but rather are being redefined. We submit
14 that there must be a positive attitude towards develop-
15 ment of this nature in order for communities to obtain
16 real benefit. But the evidence in the community
17 hearings at Old Crow manifestly demonstrate that such
18 an attitude does not exist, despite the early public
19 relations meetings that were held in Old Crow by
20 Arctic Gas.

21 Rather than protecting the
22 region from economic collapse by establishing a degree
23 of self-sufficiency through the creation of an economic
24 and transportation infrastructure, we submit the
25 development would have the effect of placing long-term
26 burdens on the region. Projects that are undertaken to
27 support pipeline construction are built to such a large
28 scale that they will be far larger than the post
29 construction period requires. The region will
30 nonetheless have to bear a portion of the cost in

1 maintaining overbuilt facilities if they can be
2 supported at all. We submit that regionally or
3 community by community, the negative impacts outweigh
4 the marginal benefits.

5 The scale of both of the
6 applicants' proposals overshadow all other activities
7 that are currently being carried out in the region
8 or even being proposed for the area. Even the
9 largest communities, such as Whitehorse, Yellowknife
10 or Inuvik have expressed concern about their ability
11 to cope adequately with the development of this scale.
12 In fact, evidence has been presented of dislocation
13 in large predominantly white cities along the Alyeska
14 Pipeline route. The scale of the development is so
15 overwhelming that all other activities are placed in
16 the shadow of pipeline construction. We submit that
17 this climate is not one conducive to stimulating
18 alternative development. Any new interests wishing
19 to establish in the region must do so in competition
20 with pipeline wages and salaries.

21 Not only are the wages and
22 salaries high on pipeline tasks, but the experience
23 in Alaska has indicated that other conditions are also
24 expected by the employees. These include a package
25 which is not all favorable for the employer. Low
26 productivity, high wages, feather-bedding, substandard
27 work, increased cost because of monitoring, and the
28 necessity of monitoring because of substandard work
29 are part of the package^{that} appears to have been
30 inherited by the State of Alaska as a consequence of

the Alyeska Pipeline.

The enormous scale of the pipeline development also gives rise to another situation. While it may not be quantifiable, is certainly felt by the region. This is the level of activity and excitement which overpowers the region during the project's time frame. While there may be some benefits in this state, there are, we submit, considerably greater costs. The rather frantic situations which arise during these developments result in a decreased sensitivity to community issues and to other people.

The results of these changes in attitude are manifested in a variety of social and cultural problems.

One of the major problems is that to the extent that the pipeline companies are successful in attracting already trained labor, there will be a concomitant disbenefit to the regional economy in the loss of that person during the construction phase of the pipeline. We recommend that wage and price guidelines be implemented and enforced during the construction phase. There are obvious problems with the political acceptability of such a recommendation.

A great deal of evidence has been presented to the Inquiry outlining the fast pace of development which prevents native people from obtaining anything but menial labor and little training for future occupations. Furthermore, there is

1 substantial evidence which indicates that large-
2 scale developments which attempt to force growth also
3 fail on these same grounds. It appears that it is not
4 so much the time frame in which the projects are under-
5 taken, as it is the scale of the project itself.
6 Admittedly, we are not aware of major undertakings
7 that have been intentionally staged over long periods
8 of time so that the project will take place in response
9 to the needs of the community affected by the proposal.
10 Economies of scale, problems in assembling a labor
11 force, and inflationary complications are all factors
12 which demand that major undertakings such as a pipeline
13 development progress as rapidly as possible. It is
14 our contention that the applicants or other interested
15 parties have not demonstrated that slowing down a
16 pipeline's construction or attempting to speed up
17 the rate of construction will effectively reduce
18 environmental, social, economic and cultural impacts.
19 The only evidence that we have seen so far indicates
20 that large projects, whether they be short-term or
21 long-term, have very costly effects from a social and
22 cultural standpoint on native people.

23 We submit that the magnitude
24 of the pipeline development will inevitably attract
25 a tremendous in-migration of outsiders directly
26 related to pipeline development, and also people just
27 wishing to be where the action is. The companies have
28 taken the view that there will be relatively few
29 in-migrants that are not directly or indirectly on
30 the company payroll who will be leaving at the end

1 of the construction phase. We submit that it be a
2 condition of the construction of the pipeline that
3 if the companies are incorrect in their assessment of
4 the in-migration, that they bear the burden of the
5 increased cost of servicing in-migration.

6 In a community such as Old
7 Crow the addition of even one or two white families
8 to the community could create serious problems of
9 overcrowding. We recommend that the applicant fund
10 these communities so that they will be able to effec-
11 tively monitor the extent of in-migration and the
12 effects of in-migration upon their communities.

1 Associated with large numbers of
2 immigrants is the corresponding decrease in political
3 and economic power of those people who have lived in the
4 region for a substantial amount of time. The evidence
5 of this Inquiry indicates that such a process has already
6 taken place to some extent to the disadvantage of
7 northern native people. We recommend that there be
8 a ten year residency rule, in other words that a person
9 has to be a resident of ten years in the region prior
10 to being allowed to vote or being allowed--being
11 involved in the decision-making process in a particular
12 community.

13 The view expressed at this
14 Inquiry that white immigrants are visitors rather than
15 owners in the North is one that has never been accepted
16 by governments, either federal or territorial, primarily
17 because it would have serious implications upon the
18 attraction of civil servants and other northerners to
19 the North for the two to three year periods that they
20 stay.

21 In other words, the recommendation
22 is most likely to be unacceptable, Mr. Commissioner.
23 It is a concern of ours that the development will
24 change considerably the political and economic power
25 of the region in other ways. The pipeline company, as
26 has been the case in Alaska, and the union leaders will
27 become major political forces in the region. Both the
28 company constructing the pipeline and the union people
29 are short-term residents of the region.

30 We submit that these two groups

1 through the manipulation of major financing schemes and
2 through the manipulation of manpower will have
3 possibly the greatest political power in the region.
4 It is our concern that these powers be limited and
5 restricted as much as possible to ensure that northern
6 people will not be disenfranchised either directly
7 or indirectly.

8 If there is to be a pipeline
9 development, we submit that the region should receive
10 an economic rent from the pipeline development. The
11 concept of user pays should be applied to a variety
12 of costs which will arise during the construction and
13 operation of the pipeline. The applicants may choose
14 to meet these obligations through an arrangement of
15 economic rent. This, however, does not build in a
16 component of long-term profit for the region which,
17 we submit, should be embodied in any development to
18 not only offset costs but to provide the resources
19 for the people of the region to recover and reorganize
20 after the development of the pipeline.

21 The region does not currently
22 have the power to levy an economic rent on the
23 development. In order to do so, this would require
24 approval of the Federal Government. We recommend that
25 the Federal Government provide the region with these
26 powers as a step which will precede the granting of
27 any pipeline certificate.

28 Throughout our submission we
29 have assumed that the successful applicant must bear
30 all costs associated with the pipeline project. For the

1 most part the applicant has taken the position at this
2 Inquiry that many of the concerns raised by native
3 organizations and environmental organizations will
4 simply not materialize. Therefore, we recommend that
5 the successful applicant shall bear all the associated
6 costs related to the pipeline development in its
7 broadest context. We submit that many of these costs
8 are directly measureable. For example, the costs of
9 the monitoring agency staffing, housing and so on
10 present no measurement problem.

11 The increased costs of social
12 overhead such as teachers, doctors, nurses and so on
13 can be accurately measured. The same applies to
14 municipal services and the government bureaucracy.
15 The greatest difficulty in the concept of user pays
16 is the measurement of the loss of language and culture
17 and determining the associated costs of immigration.
18 In this respect, we recommend that the successful
19 applicant be required to provide impact funding in
20 advance of construction for alcohol awareness programs,
21 cultural retention programs, and retention of language
22 programs on a community by community basis.

23 Using this approach the magnitude
24 of up-front impact funding could be assessed by the
25 monitoring agency prior to final design and construction.
26 All costs are ultimately borne by the American consumer
27 and could, in fact, be so high as to make the marketing
28 of frontier gas unrealistic. The only alternative
29 would be for American consumers to internalize the
30 costs of transportation by using an all American pipeline

1 route.

2 The performance bond. We submit
3 that the applicants be required to post a performance
4 bond. This performance bond should encompass the
5 potential cost increases that may occur if unanticipated
6 damages in social or environmental areas occur as a
7 result of the actions or inactions of the applicant.
8 In the light of the innovative and untried procedure
9 being proposed by the applicant, we recommend that a
10 five percent of the escalating costs of the project
11 be assessed as the performance bond.

12 There is clearly inadequate
13 information as to how this bond may function appropriately.
14 We feel that it should be researched in depth so that
15 an appropriate mechanism can be developed for assessing
16 and measuring damage as well as releasing the money in
17 the bond. However, a performance bond in the
18 environmental and social field is in an untested area.
19 There have been no precedents established. The example
20 at hand is how does one establish a decline in the
21 Porcupine caribou herd and attribute that decline to the
22 actions of the applicant or any other party?

23 Furthermore, how does one assess
24 charges to the applicant for such a decline? The
25 critical issue here is that the damages are not
26 readily quantifiable so that when one is faced with the
27 problem of assessing charges against a performance
28 bond, the charges are not neatly isolated nor would
29 they be accepted by the applicant.

30 I would like now, Mr. Commissioner,

1 to turn to the interior route. The people of Old
2 Crow have stated categorically and unanimously that
3 they oppose pipeline construction along the proposed
4 interior route. This opposition does not diminish
5 after land claims are settled and implemented because
6 land claims is perceived as the means of preventing
7 large-scale development proposals forever.

8 A number of reasons were given
9 for this stance. We will give these reasons by first
10 isolating what problems are perceived with the proposed
11 pipeline routing. Then we will outline a set of
12 recommendations which could be established with the
13 intention of minimizing problems or impacts. Following
14 that, we will point out how these recommendations are
15 likely to fail. The primary failure of all
16 recommendations would occur if land claims were not
17 settled and implemented prior to the approval of a
18 pipeline project.

19 This has been categorically
20 stated by the people of Old Crow and by the Council
21 for Yukon Indians. To construct the pipeline along
22 the interior route prior to the settlement and
23 implementation of the land claims would be considered
24 an act of bad faith and in this context, the degree
25 to which the community could be expected to cooperate
26 and participate in any constructive fashion in the
27 development would be seriously encumbered. It can also
28 be anticipated that such an act would lead to further
29 negative circumstances and costs to the community.

30 The arguments we have presented

1 about the interior route have been organized so that
2 those issues that are perceived to be the most critical
3 to the people of Old Crow have been given the first
4 priority. These impacts are almost entirely social
5 in nature and are held with such conviction that they
6 have the likelihood of becoming self-fulfilling.

7 Those issues which are perceived
8 as potentially dangerous problems may well, because
9 of the way in which they are thought of, become just
10 that, dangerous problems.

11 The next topic of concern in
12 almost equal intensity in terms of the concern which
13 has been generated among the people of Old Crow is the
14 potential environmental damages and the destruction
15 that these would have to the man-land ties. The people
16 of Old Crow see the building of a pipeline along the
17 interior route would cause irreversible damage to their
18 country and to the animals which are part of their
19 country.

20 The third factor which is
21 considerably less significant to the people of Old,
22 Crow in comparison to the previous two are the economic
23 changes that would accompany the pipeline development
24 along the interior route. Little of value is seen in
25 terms of potentially high wages and the possibilities
26 for jobs for some of the young men in Old Crow. However,
27 there was considerable concern expressed about how these
28 big salaries and attractive wages would make the
29 employment the community had to offer to its members
30 comparatively much less attractive.

1 Their fear was that this would
2 detract from the economy which is already functioning
3 effectively in the community. Following these
4 discussions, arguments will then turn to the projects
5 that the applicants have proposed and examine how
6 these projects would be received by the community and
7 affect the community. Following that, we will then
8 examine the implications of the corridor concept if the
9 interior route is utilized as a corridor.

10 The proximity of the interior
11 route of the pipeline is a source of a great deal of
12 concern for the people of Old Crow. During the
13 community hearing, the Inquiry heard a number of these
14 concerns expressed. The following is a list of some
15 of the social and cultural problems and costs that the
16 people perceive would accompany the development of a
17 pipeline along the interior route:

- 18 1) Increased use of alcohol.
- 19 2) Increased bootlegging.
- 20 3) Increased drug use.
- 21 4) Too many people who want to live in Old Crow.
- 22 5) Broken homes and families.
- 23 6) Pipeline workers coming into Old Crow and getting
24 people drunk.
- 25 7) Culture shock for Old Crow people.
- 26 8) Whiteman shooting caribou for their antlers only.
- 27 9) Disappearance of caribou and livelihood when the
28 pipeline is completed.
- 29 10) Married whiteman will come to Old Crow and live
30 with Old Crow girls and leave them when construction

1 is completed.

- 2 11) Fires can occur which will deplete the Old Crow
3 wood supply.
- 4 12) Pipeline will mean more police officers, game
5 officers and customs officers.
- 6 13) If Old Crow becomes a white settlement, Old Crow
7 Indians will become like Whitehorse Indians;
8 drinking, poor and on welfare.
- 9 14) The pipeline will change Old Crow so much that
10 it cannot change back; fear of strangers, locks
11 and trespassing.
- 12 15) The pipeline will result in child abuse, mental
13 illness, and physical illness.
- 14 16) When Old Crow land is destroyed, the kids leave
15 for school and never return and Old Crow will
16 die.
- 17 17) The pipeline jobs will be temporary and short-
18 term and there will be racial prejudice in the
19 construction camps.
- 20 18) After the pipeline is finished some men will
21 want to stay in Old Crow and live off the land.
- 22 19) Anytime the government wants to do anything
23 they go ahead even if the people of Old Crow
24 are against it.
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- 1 20) The white people work in our land and make it
2 harder for us to make our living out of our own
3 country.
- 4 21) White people from outside make laws for us and
5 tell us how to live.
- 6 22) Pipeline research has disturbed caribou migration
- 7 23) Increase in venereal diseases.
- 8 24) Young people would stop listening to older people
9 in the community.
- 10 25) There would be more development in Old Crow from
11 the outside.
- 12 26) Children would move out of Old Crow and forget
13 old ways
- 14 27) Building of the interior route would remove the
15 choice the people of Old Crow have as to whether they
16 wish to stay in the community or go outside, whether
17 they wish to live on the land or live in the white
18 man's world.
- 19 28) There would be more white people moving into
20 Old Crow and an increasing insensitivity to the people
21 of Old Crow by the people that move in. The white
22 framework would be less oriented to the needs of the
23 people of Old Crow.

24 It is interesting to note
25 that the community nurse in Old Crow believes that the
26 influx of pipeline consultants and researchers increased
27 the stress on the people of Old Crow and created
28 conflicts that people were unable to deal with. The
29 stresses of such a nature that it cannot be controlled
30 by physical effort and the frustration is relieved in

1 other forms such as violence, aggression, alcohol,
2 drugs, and other social problems. Although no one
3 in Old Crow has openly advocated violence as have
4 some communities in the Mackenzie Valley, we submit
5 that there are highly charged emotional feelings
6 about the pipeline. We fear that if the pipeline is
7 constructed on the interior route, that many Indian
8 people will be left no alternative but to react in
9 a violent manner.

10 If the pipeline is constructed
11 without the agreement of the Indian people of Old Crow
12 and the Mackenzie Valley, we submit that a tremendous
13 increase in the cost of policing northern communities
14 and the pipeline would result. We submit that the
15 known behaviour of pipeline construction workers will
16 put communities up against the wall, forcing a violent
17 reaction if for no other reason than to maintain their
18 integrity and the integrity of their community.

19 Page E-5 and page E-6 are in
20 reverse order.

21 We submit that apart from the
22 evidence of the native people themselves in the
23 community hearings, that one of the most useful ideas
24 presented to this Inquiry was the view expressed by
25 Mr. Usher, that white people in the north must be
26 considered visitors rather than permanent residents
27 whose values are the controlling factors in northern
28 development. This view does not depend upon native
29 people comprising a majority of the population as
30 is the case in the Northwest Territories and as well

1 could be argued for the people of Old Crow with respect
2 to the Yukon Territory north of the 65th Parallel.
3 Rather, this Inquiry should consider a historical
4 perspective particularly with reference to the Yukon
5 Territory, that recognizes the erosion of political
6 power as a result of similar large-scale developments
7 which the pipeline companies presently propose.

8 We refer to the Klondike
9 Gold Rush and the construction of the Alaska Highway.
10 From this perspective the evidence of the community
11 hearings is in fact the only meaningful baseline data
12 from which to draw conclusions about the pipeline's
13 likely social and economic impacts.

14 The social impact study
15 prepared by Arctic Gas did not have the advantage of
16 taking into consideration the views of the communities
17 most directly affected by their development. We submit
18 that the availability of the community hearings
19 evidence now -- and we have seen this -- will unlikely
20 have a major impact upon the attitudes of pipeline
21 companies simply because those views are opposed to
22 pipeline development. By the same token the evidence
23 presented by the government at this Inquiry has often
24 been in the context of existing government programs
25 which accept the existence of social problems likely
26 to result from pipeline development and attempt to
27 provide cures.

28 The threat of a large-scale
29 development such as the Arctic Gas proposal does
30 little to enhance the view on the part of the Indian

1 people that they will be able to manage and control
2 their affairs. If such a development is permitted to
3 go ahead it demonstrates clearly and explicitly that
4 their way of life, their desires for the future and
5 their values are of little consequence to the people
6 of Canada.

7 Now I'll deal with some
8 recommendations.

9 The most obvious recommendation
10 that has been discussed during the course of this
11 Inquiry states that all pipeline construction workers
12 must be kept in construction camps at all times. No
13 doubt efforts should be made to provide taverns and
14 organized prostitution in construction camps, but we
15 feel that these recommendations will ultimately fail
16 in that every person who comes north would take it
17 as a personal failure if they were unable to experience
18 life in a small Indian community adjacent to the
19 pipeline.

20 In addition to the movement
21 of pipeline-related personnel there is considerable
22 concern about the in-migration of people not related
23 specifically or directly to the construction of the
24 pipeline. We are inclined to feel that there are
25 no recommendations that we can make which will
26 assist the applicant in terms of managing this situation.

27 All the construction workers
28 should be flown in and out of construction jobs from
29 the camp to southern centres, and in the event of
30 layoffs, strike problems or shutdowns, all the

workers in construction camps should be flown out immediately for the duration of the disruption. The difficulty with this recommendation is that no company can force a worker to get on an airplane, particularly when it is a labor disruption, and the company will in fact have no control over workers whatsoever.

We recommend that communities such as Old Crow be empowered to control the immigration of outsiders. The difficulty with this recommendation is the legal problem as to whether or not a community can in fact prevent any person from entering that community, and also whether the community would be able to enforce such controls particularly when members of the community would be returning with new-found friends from construction camps. The conflicts created in these cases would be unavoidable.

In any event, we recommend that communities such as Old Crow have the sole determination as to whether any permanent residents could be added to their community and if so, that the services to be provided be determined by the community with all costs to be charged to the applicant.

We recommend that it be a term and condition with respect to Old Crow that the pipeline company be absolutely prohibited from making any use of Old Crow in the Old Crow Airport facilities because of the in-migration problem, and also because of the lack of suitable space for stockpiling equipment

1 and supplies that would not impinge upon local
2 community activities.

3 We see problems with making
4 construction camps too attractive in that native
5 people will be drawn to these construction camps
6 from communities without fully realizing what such
7 a move could entail in terms of social and cultural
8 impacts. The problem of in-migration contributes to
9 many of the social impacts likely to occur in Old
10 Crow. However, many problems will occur independently
11 of in-migration and we wish to deal with those
12 separately.

13 I deal now with increased
14 alcohol consumption.

15 One of the most chronic and
16 most frequently cited problems in the north is that
17 related to alcohol consumption. The people of Old Crow
18 feel that if a pipeline is to be built along the
19 interior route, that it would result in a substantial
20 increase in alcohol consumption. Accompanying increased
21 alcohol consumption are complications such as degenera-
22 tion of family relationships, increases in violent
23 crimes and deaths, increases in alcohol-related
24 deaths, and increases in suicides.

25 Increased alcohol consumption
26 is generally tied to two factors.

27 . The first is the collapse of the system of sanction
28 in the communities, and the disintegration of values
29 and standards of communities.

30 This is often observed in

1 communities in which the changes to the social and
2 cultural fabric of the community are occurring at a
3 rate which exceeds the capacity of the community to
4 adapt. The second factor is that of access. Easier
5 access to alcohol in turn makes alcohol a more visible
6 solution to a problem than in situations where alcohol
7 is very difficult to acquire.

8 The following problems can
9 be anticipated if the pipeline is built along the
10 interior route:

11 . There will be increased alcohol consumption in
12 Old Crow along with the attendant social and cultural
13 problems.

14 . That the community will be receiving a substantial
15 increase in traffic, and as a consequence there will
16 be greater access to alcohol

17 . The influence and impact of many outside people
18 and agencies upon the Settlement of Old Crow clearly
19 have the effect of placing a stress upon the people
20 of Old Crow. This stress would be one which would
21 draw the people of Old Crow to leaving a large part
22 of their traditions and their beliefs. In these
23 circumstances, traditions and beliefs are not
24 readily replaced.

25 . Alcohol will tend to fill a vacuum.

26 Our recommendations. It is
27 recommended that the applicant be responsible for
28 undertaking and bearing the cost of an alcohol aware-
29 ness program. The weakness of this recommendation is
30 that alcohol awareness programs are a long-term

1 operation. These types of programs operate more
2 successfully when communities are in a more stabilizing
3 phase. During the pipeline construction there is
4 substantial upheaval in the community and it is not
5 the time nor the appropriate measure to cope with the
6 problems which accompany the increased use of alcohol.

7 We recommend that legislation
8 be enacted to limit the importing of liquor to Old
9 Crow and the amount which can be brought into Old
10 Crow from other communities within the Yukon by non-
11 residents of Old Crow. We feel that this recommendation
12 will fail and that policing is simply not possible.

13 We recommend that legislation
14 be created to enable the people of Old Crow to establish
15 their own rules and regulations for controlling the
16 consumption of alcohol in their own community.

17 We recommend that the applicant
18 ensure that camps have liquor facilities and that they
19 are controlled and managed by the applicant. It would
20 be done with a view to reducing the extent to which
21 workers in pipeline operation would be enticed
22 to go to communities for what can generally generically
23 be described as social benefits. This creates problems
24 for the pipeline company in terms of job safety,
25 policing and monitoring movements in and out of camps.

26 I turn now to the problem of
27 the shift in community control. If the in-migration
28 of outside people were controlled -- and this seems
29 to be outside of the powers of the applicant and of
30 the government -- it can still be expected that there

1 will be an influx of people to service existing
2 institutions. An illustration of this is the airstrip
3 at Old Crow. It can be reasonably expected that there
4 will be increased traffic and greater use of the air-
5 strip. From this it can also be expected ~~that~~ there
6 will be an increased demand in terms of maintenance
7 and operation of the airstrip.

8 Currently the airstrip and
9 the roads about the community, as well as a number of
10 other functions, are served by one man in Old Crow.
11 Should the airstrip be used to a greater extent,
12 it is reasonable to expect an increase in the manpower
13 required to operate and maintain the airstrip.

14 Currently the single man that
15 operates the airstrip functions rather well in the
16 framework of the Old Crow community. However, there
17 is no insurance that the additional staff will be
18 sensitive to the types and style of government which
19 exists in Old Crow, and feel that the terms of their
20 residency in Old Crow should be established by the
21 Indian people in Old Crow. This same proposition can
22 be applied to the R.C.M.P., to the school, the nursing
23 station, the co-op and to other agencies operating in
24 the community. The decrease in sensitivity can
25 clearly be anticipated when examined against the
26 framework of the amount of pipeline-related activity
27 that has taken place already.

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We recommend that the government agencies currently operating in the community of Old Crow maintained their existing manpower without increase during the construction of the pipeline and during the operational phase of the pipeline. In the face of the increase of people moving into Old Crow and the increase of the use of the Old Crow facilities, it is almost impossible to live up to the terms of this condition without causing considerable inconvenience to the people of Old Crow.

That any kind of additional service personnel required be accommodated at the construction camp and not the communities. The major weakness of this recommendation is that it assumes that the demands for facilities and their utilization can be controlled and directed. It has been demonstrated that such controls do not operate in Canada and we refer to the evidence relating to the Cypress Anvil Mine development in the Yukon Territory.

The applicants have already accepted the responsibility of bearing the costs of their own medical, policing and staging services. However, they are only willing to accept those costs if they can be directly and specifically attributed to them--to the development, rather, of the pipeline. This does not take into account subsidiary and secondary developments which are not directly tied to the pipeline but are there as a consequence of the whole scheme.

Deterioration of physical health

1 and mental health. People in Old Crow have indicated
2 at their community hearing that the town would be
3 ruined if the pipeline is built along this route. With
4 such a view, it is quite conceivable that one can expect
5 a variety of behavioural changes. The first and
6 probably the most important from a physical standpoint
7 is that there would be a reduction in land based
8 activities.

9 Most men in Old Crow are fairly
10 fit because of the exercise they gain from hunting,
11 fishing, wood gathering, house building and those
12 activities tied with their traditional economy. If
13 the pipeline is brought along the interior route, it
14 will likely disrupt this pattern. Another factor
15 related to health is the expected increase of violent
16 acts that will accompany the development of the
17 pipeline along the interior route.

18 The people in Old Crow expect
19 to see more drinking, more fights and more social
20 disharmony and if all these disruptions occur, they
21 expect to see an increase in injuries and an increase
22 in deaths. In relation to these types of changes
23 there is an increased demand put upon the medical
24 health facilities in the community. Another factor
25 which needs to be considered is the situation of mental
26 health and how this will be affected by the development
27 of the pipeline.

28 Changing the fabric of the
29 community and the social relations within the
30 community at a rate faster than that at which the

1 community can assimilate leads to a variety of mental
2 health disorders.

3 We recommend that increased
4 medical services be provided for the community of
5 Old Crow. However, the fundamental problem of social
6 disruption and violence is not alleviated.

7 We recommend mental health
8 services be made more readily available to the people
9 of Old Crow. However, the presence of a psychiatrist
10 or a psychologist does little to enhance the stability
11 of a community. A notion that a psychiatrist must
12 attend your community is perceived by the people of
13 the community as a reading that the community is
14 sick and often leads people into courses of action
15 which are expected of a sick community.

16 I'd like now to deal with the
17 school system. Testimony by a number of people in
18 the community hearings in Old Crow indicated that the
19 school is responding to the needs of the community and
20 that it had developed a number of programs and unique
21 approaches that were suited to the demands and the
22 desires of people for the future. The people of Old
23 Crow feel that they are able to maintain this situation
24 because the school and the community are almost
25 totally Indian in nature and culture.

26 If there is substantial immigration
27 of non-Indian people into the community, we fear that
28 an increased number of white children in the school and
29 increased white parents in the community will demand
30 changes to the way in which the school is operated.

1 This process was evident in Ross River following the
2 Cypress Anvil development. Another concern is the
3 problem of children dropping out of school before they
4 have completed their academic program.

5 Currently in Old Crow, none
6 of the students are leaving school prior to completing
7 the most senior grade that can be obtained in the
8 community. Almost all have carried on attending
9 high school in Whitehorse. The potential availability
10 of jobs for young people full of notions of big money,
11 whether or not in fact a reality, and the whole climate
12 of social disintegration may well lead a number of young
13 people to drop out of school before they complete their
14 school program in the community.

15 Family and domestic relation-
16 ships. All of the permanent residents of Old Crow
17 are tied to a web of family relationship. This extended
18 branching of relationships provides the community with
19 a stability in troubled times and closeness reducing
20 the isolation from other communities. Most young people
21 are now living in nuclear family arrangements. This
22 only describes the household setting. The social
23 relationships clearly extend to the whole of the domestic
24 group and family ties are very strong and very cohesive.

25 The continued existence of this
26 rather stable family system has been largely due to the
27 isolation of Old Crow and to the relative cohesiveness
28 of the community. In other settlements which have
29 undergone rapid change as a consequence of the impact
30 of major development transgressions in the family

1 setting have increased and there have been a decrease
2 in the ability of the domestic group to help the
3 nuclear family cope with these kinds of problems. A
4 number of situations occur which give rise to these
5 circumstances.

- 6 1) Some men in the community leave the settlement
7 for employment on the development project leaving
8 their spouse and family alone.
- 9 2) There is an increase in alcohol consumption and
10 an increase in the number of outside people
11 moving into the community.
- 12 3) The combination of the above two factors leads
13 to increased promiscuity and a variety of domestic
14 related problems.
- 15 4) The traditional system of dealing with transgressions
16 on the part of the spouse disintegrates.

17 The domestic group now takes
18 a less significant role in the solution of these
19 problems. The consequence of these rather complex
20 situations often is the breakdown in a marriage situation
21 frequently accompanied with violence and child abuse.
22 This is a scenario which has been seen in many of the
23 other communities. It is not one that people of Old
24 Crow are familiar with and they do not wish to see it
25 occur in their community.

26 We have no workable recommendations
27 for this problem. I turn now, Mr. Commissioner, to the
28 man-land relationships and begin with--

29 THE COMMISSIONER: Well, let's
30 stop for a few minutes for coffee then.

(PROCEEDINGS ADJOURNED FOR A FEW MINUTES)

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: All right ladies and gentlemen. Mr. Gamble, would you like to announce that we're about to resume?

MR. SCOTT: We're about to get started now.

THE COMMISSIONER: O.K.

MR. VEALE: Mr. Commissioner, in our man-land relationship section, we recommend that no hunting, fishing or trapping be permitted for pipeline construction workers under any circumstances. We recommend, as the evidence of Dr. Mossop indicated, that there should be a complete hunting ban on the Dempster Highway and we urge this Inquiry to adopt that recommendation. Further, as part of the land claim proposal for the Old Crow that the people of Old Crow and the people in surrounding communities will have complete control over hunting access in the Northern Yukon.

Another recommendation in this regard for other areas of the Yukon which could be affected by pipeline development is that newcomers to the Territory have a 10-year period of residency requirement before hunting licences can be acquired.

We have considered the recommendation at legislating stricter gun control measures be implemented but we do not feel it's a viable recommendation in Indian communities particularly when it results from developments imposed by outsiders.

We recommend, on page 17,

1 a total ban on fishing of any nature by construction
2 workers and that in-migrants as a result of pipeline
3 construction be required to establish a ten-year
4 residency requirement prior to obtaining a sports
5 fishing licence.

6 It is also recommended that
7 the pipeline companies not be allowed to utilize local
8 fish as food for pipeline camps. This places an
9 additional strain upon fisheries and inflates the price
10 of fish in Indian communities thereby affecting
11 local consumption.

12 We're concerned about the
13 problems of quotas on hunting, trapping and fishing.
14 The only recommendation that can be made in this regard
15 is that the activities of sports hunters, sports
16 fishermen, commercial native use and domestic native
17 use be restricted in that order. Now, we indicate that
18 this recommendation is subject to failure in the
19 circumstances of the Porcupine caribou herd where the
20 native harvest is the only significant harvest at this
21 date in the Yukon and hence will be the only harvest
22 to implement quotas on.

23 Page 18, E-18 regarding the
24 construction worker and environmental training issue,
25 we recommend that the actual training of pipeline
26 construction workers take place in field conditions
27 and be a necessary precondition to a worker commencing
28 at a construction job. We also recommend that any
29 pipeline worker that fails to live up to the conditions
30 spelled out by the agency be prohibited from doing

1 further work on the pipeline as well as suffering
2 appropriate criminal law sanctions.

3 Now we have a section on
4 caribou, Mr. Commissioner, in both the prime and
5 interior route sections, and this has been well
6 covered in the Canadian Arctic Resources brief, and
7 we stand by those as well. We are particularly
8 concerned about the interior route in that caribou
9 are in the vicinity of Old Crow Mountain for the
10 entire fall, winter, and on into the spring season.
11 That is, the construction of the interior route would
12 place a pressure upon the caribou that stay in that
13 region north of Old Crow and may result in them
14 not wintering in that region. It's impossible, of
15 course, to make a specific recommendation that would
16 counter this situation, except that it be a no pipe-
17 line situation.

18 Now on page E-24 Mr.
19 Commissioner, we have set up a number of problems that
20 occur with economic impacts, and we have discussed
21 these social problems that occur with pipeline
22 employment. We feel that all the economic disadvantages
23 in terms of large salaries and big money that occur
24 in small communities have not -- cannot really be
25 met satisfactorily by recommendations that would be
26 effective and minimize the consequences. / ^{If} the pipeline
27 employment is not made available to residents of Old
28 Crow there will be on the one hand ill-will because
29 they are being denied an opportunity; and if it is
30 made readily available, the consequences can be

1 anticipated and that is the consequent inflation in
2 the community and big spending.

3 We outline on page 25 the
4 problems of the shift from traditional economic
5 activities, and we recommend the government provide
6 incentives and stabilize prices to ensure that
7 traditional economic pursuits will be followed by the
8 people of Old Crow.

9 The problem with the
10 recommendation is that being implemented in the face
11 of a large-scale development we do not feel that it
12 would be a successful venture as if it were done
13 at the present time.

14 We also see a problem of
15 increased welfare assistance in the communities and
16 we have no recommendation to counter that problem.

17 We discuss on page 26 the
18 problems of the transportation infrastructure and how
19 services to the people of Old Crow will be affected
20 during pipeline construction.

21 We feel that the applicant, there
22 should be a condition that there is an assurance that
23 regular air flights will be provided to all settlements
24 and to Old Crow in particular at a charge which is
25 consistent with their present rate costs.

26 Secondly, that the applicant
27 place as a first priority the delivery of goods and
28 services to communities, and this would be arranged
29 to ensure that community services would not under
30 any circumstances be placed on a lower priority than

1 the delivery of goods to pipeline construction spreads.

2 We are also concerned about
3 the possible increase in freight rates and the effect
4 that the high wages offered on the pipeline will have
5 in terms of increases in prices in the community
6 itself.

7 We recommend that the applicant
8 be responsible for paying any associated increases in
9 the cost of living, and it should extend to all
10 community services as well as the cost of items
11 consumed in Old Crow.

12 Secondly, we recommend that
13 the applicant provide the funds to the community for
14 a monitoring agency which will monitor the increased
15 social and economic costs so that they in turn can
16 be passed along to the applicants.

17 Now we set out on page 28
18 some of the business activities that are likely to be
19 associated with pipeline development, and it is our
20 view that the people of Old Crow do not have the
21 resources and training to capitalize on entrepreneurial
22 opportunities that become available with the develop-
23 ment of a pipeline. We really have no recommendations
24 in that regard. We feel that the co-op cannot become
25 involved in such a large-scale enterprise, as it will
26 drain its resources and reduce the service that it's
27 providing to the community itself.

28 On page 29 we discuss the
29 increased exploration activity that will be associated
30 with a pipeline development and our concern here is

1 explicitly with respect to Old Crow Flats. A great
2 deal of evidence was presented to the
3 Inquiry at Old Crow on the bad effects that occurred
4 when the seismic explorations took place on the flats,
5 and I would indicate at this time, Mr. Commissioner,
6 that the moratorium on seismic exploration on Old
7 Crow Flats is still in effect for the '76-'77 winter
8 season.

9 We also feel that a moratorium
10 should be extended until the land claims settlement has
11 established at the Old Crow Flats is an area to be
12 removed forever from this kind of development.

13 We also recommend that any
14 exploration activity which is going to be conducted
15 in the region of Old Crow operate from a place other
16 than the Community of Old Crow itself, and that they
17 not use the community itself for staging their explora-
18 tion activities.

19 Now the following pages,
20 Mr. Commissioner, pages 31 through to 34, we discuss
21 the applicant projects, mainly Nortran, gas supply
22 to communities, and business opportunities and benefits,
23 and we basically set out that none of these particular
24 benefits are, in the terms of the people of Old Crow,
25 satisfactory to that community or benefits that are
26 likely to be any more than marginal and all would be
27 associated with increased burdens and costs to the
28 community.

29 I turn now to our conclusion
30 on page 37. We submit that the interior route is not

1 suitable for a pipeline or a corridor development.
2 The impact on the people of Old Crow and the Porcupine
3 caribou herd and Old Crow Flats will be devastating.
4 The benefits from the pipeline will be marginal at
5 best for the region.

6 The Inquiry has heard some
7 discussion with respect to a pipeline route south of
8 the Porcupine River. We do not see any advantages or
9 any significant advantages to such a route. The route
10 would likely intersect the Porcupine River on two
11 occasions and would enter into the same detrimental
12 interaction between the Dempster Highway and the
13 Porcupine caribou herd. The development pressure on
14 the Old Crow Flats and Eagle Plains Basin would be
15 increased as a result.

16 The prejudice to the Old Crow
17 land claims would not be diminished.

18 The following are our major
19 recommendations, Mr. Commissioner:

- 20 1. That no pipeline be constructed until the land
21 claims of the Yukon Indian people and particularly the
22 people of Old Crow have been settled and implemented
- 23 2. That no pipeline be constructed at any time on
24 the interior route of the Northern Yukon or any other
25 route in the Porcupine River drainage
- 26 3. That the principle of self-determination for the
27 people of Old Crow not be compromised by development
- 28 4. That the area encompassed by the drainage basins
29 of Old Crow Flats and Old Crow River be declared a
30 socially and ecologically sensitive area and be

1 placed under the control and management of the people
2 of Old Crow as part of the settlement of the Old Crow
3 land claims and be withdrawn from development forever.

4 (SUBMISSION OF MR. VEALE FOR COUNCIL OF
5 YUKON INDIANS MARKED EXHIBIT 902)
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1 We would add, Mr. Commissioner,
2 in discussing the prime route that the caribou calving
3 ground and post-calving aggregation areas would be
4 ecologically sensitive areas.

5 5) We recommend that the principles embodied in the
6 Arctic International Wildlife Range proposal
7 be implemented in the areas of the northern Yukon
8 adjacent to Old Crow lands by representatives
9 of the people of Old Crow with advisory
10 representation for federal and territorial
11 agencies.

12 Mr. Commissioner, we feel that
13 Old Crow should have an exclusive management control
14 in the region that it is because it is the only
15 community there. This would apply, except in the case
16 of the Porcupine caribou herd which clearly has
17 interactions with other communities and an international
18 aspect as well.

19 6) We recommend that the Dempster Highway not be
20 completed as it will have a greater impact upon
21 the Porcupine caribou herd than any proposed
22 gas pipeline.

23 7) That neither the interior route nor any route
24 that crosses the Porcupine River drainage be
25 approved for pipeline construction because the
26 combination of the completion of the Dempster
27 Highway, construction of a gas pipeline, and
28 the increase human access subsequent to that
29 construction will lead to a serious decline in
30 the population of the Porcupine caribou herd and

1 the undermining of a major food supply and cultural
2 aspect of the people of Old Crow.

3 Now, if pipeline construction
4 were to proceed against the wishes of the people of
5 Old Crow along the interior route, we submit that
6 substantial research is required to ensure that the
7 interaction of the caribou on the Dempster Highway
8 is minimized, particularly when the equipment and
9 supplies are being mobilized.

10 9) That if a pipeline is constructed on the interior
11 route or any other route crossing the Porcupine
12 River drainage, we recommend that construction
13 begin in the region of Old Crow River and proceed
14 east and west simultaneously so that the
15 construction activity will pass the known areas
16 of caribou migration in the fall and spring
17 prior to the commencement of that migration.

18 I would add, Mr. Commissioner,
19 that that is an untested recommendation but we are
20 making it as a suggestion in that hopefully a study
21 could be done to ensure that the migration routes are
22 not impacted directly by the construction activity.

23 10) That if the pipeline is constructed on the
24 interior route or any other route that crosses
25 the Porcupine River drainage, that the three
26 access roads from the Dempster Highway be reduced
27 to one; that one access road by the permanent
28 all-weather access road near the Northwest
29 Territories border.

30 Now, the intention behind this

1 recommendation is that that would reduce the access to
2 that whole region between the Dempster Highway and the
3 Old Crow community. The problem is that it would
4 likely place a tremendous burden on the snow road
5 along the actual pipeline right-of-way.

6 11) That if a gas pipeline is constructed on the
7 interior route or any route that crosses the
8 Porcupine River drainage, that site specific
9 studies be conducted under the scrutiny of the
10 monitoring agency and I would add the people
11 of Old Crow to bring the knowledge of the route
12 alignment and research upon site specific
13 recommendations to an adequate level of knowledge.

14 Mr. Commissioner, we do not
15 feel that the interior route is a viable route because
16 the applicant has simply concentrated all their
17 time on the prime route. And finally, Mr. Commissioner,
18 we state:

19 12) That no pipeline be constructed on the interior
20 route unless it is done by means of the construction
21 of snow roads.

22 Now, sir, in turning to the
23 prime route, I would firstly like to deal with a
24 comment that was made by Mr. Marshall for Arctic Gas
25 which may have unintentionally misrepresented perhaps
26 by inference only our positions. Mr. Marshall stated
27 that we feel that the socio-economic impacts of the
28 prime route will be much less.

29 I would state to you, sir,
30 categorically that the Council for Yukon Indians is

1 opposed to the prime route--is as opposed to the prime
2 route as it is to the interior route. The people of
3 Old Crow have indicated that they would rather have
4 the Arctic Gas pipeline built along the prime route
5 if they had no choice.

6 But that their first preference
7 is for no pipeline at all through the country. Their
8 concern about--

9 THE COMMISSIONER: Excuse me,
10 Mr. Veale. Could I just take you back a minute. You've
11 urged that the Dempster Highway not be completed. It
12 is the policy of the Federal Government to complete
13 the Dempster Highway by 1978. The highway is--many
14 millions of dollars have already been expended on the
15 construction of the Dempster Highway.

16 Yet you urge that it not be
17 completed. That, it seems to me, is an unrealistic
18 proposition and I understand your concern, speaking
19 for the people of Old Crow, about the impact that the
20 completion of the Dempster will have on the Porcupine
21 River herd, but your contention earlier was that the
22 threat to the herd lies principally in the possibility
23 of industrial development in the calving grounds on the
24 coast, and that that was the critical habitat for the
25 herd.

26 The Dempster Highway intersects
27 a portion of the winter range. What I don't--well, let
28 me put it this way; it seems to me those two propositions
29 are not entirely consistent and secondly, insofar as
30 you argue that the Dempster Highway should not be

1 completed, it seems to me that you're arguing something
2 which should have been taken up with the government
3 when they first began construction of that highway
4 some years ago and they could not be expected now, it
5 seems to me, to say that the highway will not be
6 completed.

7 If you wish to comment on what
8 I've said, I'd like to hear from you.

9 MR. VEALE: I suppose the
10 same argument could be applied to the Mackenzie Highway
11 in that the government started it and the government
12 has to complete it, and we--

13 THE COMMISSIONER: They're not
14 as eager with respect to the Mackenzie Highway.

15 MR. VEALE: The Dempster--

16 THE COMMISSIONER: And it will
17 be completed too.

18 MR. VEALE: That's true. The
19 completion of the Dempster Highway is something that
20 is taking place more from having set the financing
21 wheels in motion than any real desire. The mining
22 community in the Yukon has no interest in pursuing the
23 Dempster Highway. It appears to be the Federal
24 Government having established a policy in the early
25 '60s and not being able to stop.

26 We would prefer that that
27 highway remain as a tote road, if you will, and not
28 be developed as a complete all-weather access road
29 for the general public. Now, you've indicated that
30 possibly our submissions are inconsistent in that we're

1 concerned with the calving ground, but surely it is as
2 great a--a similar threat to the herd just because of
3 the existence and the possible use of that highway
4 and it's of no less concern to us if the Porcupine
5 caribou herd is decimated either by harassment on
6 calving ground or decimated because of what takes
7 place on the Dempster Highway. They're both bad, sir,
8 and that's why we are putting our recommendations in
9 this fashion.

10 The whole concept of corridor,
11 I submit, really requires a consideration of the
12 access to the corridor and if we take the prime route,
13 it's very clear that the access is by barges and
14 wharves as they come into the North Slope. But when
15 we got to the interior route, it's a different kettle
16 of fish and it's the Dempster Highway and long access
17 roads across untouched land close to the community
18 of Old Crow.

19 THE COMMISSIONER: That's a
20 good point that I don't think has been that effectively
21 made before and I have it well in mind, and it certainly
22 illustrates how the Dempster could have a greater
23 impact if it were used for purposes of bringing pipe
24 and other supplies to a pipeline constructed on the
25 interior route.

26 In that way, the Dempster
27 would have a greater effect, a greater impact than
28 anyone has so far suggested. I see that point, but I--

29 MR. VEALE: I appreciate you sir--

30 THE COMMISSIONER: You see, the

1 policy of completing those highways is a matter of
2 high national policy determined, as you say, in the
3 early '60s with respect to the Dempster and in the
4 early '70s with respect to the Mackenzie.

5 The Prime Minister himself
6 announced the determination of the government to build
7 an all-weather highway to the Arctic in 1972 and though
8 the completion date has been postponed indefinitely
9 they still are I think determined to complete it to
10 Wrigley by 1980.

11 But regard to the Dempster, they
12 are reasonably close to completion at enormous expense.
13 And to say to them now, well, you shouldn't complete
14 this highway, but instead use it as a tote road, which
15 I take it is a road for a limited industrial
16 transport purposes and not open to the public, quite
17 inconsistent with the whole policy decided upon, as you
18 say, fifteen years ago.

19 MR. VEALE: Well, there also
20 is the argument that when you've got a bad deal going,
21 you should cut your losses, and the submission there
22 is that the maintenance of the Dempster Highway alone
23 is going to be well over \$1,000,000.00 a year, and in
24 fact, the government could fly Hercules aircraft into
25 Inuvik and supply that community quite adequately
26 without the necessity of ever constructing the
27 Dempster Highway.

28 It is just--our concern is--we
29 realize that government policy is to complete the
30 Dempster Highway and obviously that is something that

1 you may not be able to tamper with in your recommendations,
2 sir. The fact is that we feel the project is so
3 misconceived that the matter has to be stated clearly
4 at sometime and it does tie in with this pipeline
5 development in a way that causes grave concern that
6 I think this Inquiry should address itself to.
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1 THE COMMISSIONER: The
2 relationship of the Dempster to pipeline construction
3 across the Northern Yukon and the necessity for
4 taking the impact of the Dempster on the herd,
5 especially upon completion of the Dempster, into
6 account when you are considering the impact of pipe-
7 lines across the coastal route or the interior route,
8 as the case may be. Now that I fully intend to do,
9 and I certainly appreciate your views on the subject.

10 Well, fine, sorry to
11 interrupt you. Carry on.

12 MR. VEALE: I was dealing,
13 sir, with the prime route of Arctic Gas.

14 The concern of the people of
15 Old Crow about the impacts the prime route will have
16 upon the settlement rests upon the effects that the
17 development will have upon the Porcupine caribou
18 herd. The Porcupine caribou herd, as has been
19 described earlier, is the life blood of the people
20 of Old Crow. Without the caribou the pattern of
21 living that the people of Old Crow have known for
22 hundreds of years would no longer be possible.

23 As one elderly woman in
24 Old Crow put it "When the animals die, we die too."
25 It is from this perspective that we view the impact
26 that the prime route upon the caribou and how that
27 will affect the relationship between the people of
28 Old Crow and the land. It is also our opinion that
29 the people of Old Crow will suffer a variety of
30 social and cultural costs if the prime route

1 is followed in the construction of a pipeline. While
2 we feel that these impacts will be of a lesser
3 magnitude than they would be if the interior route
4 were followed, we are still of the opinion that they
5 will be significant and detrimental.

6 Now, Mr. Commissioner, it's
7 clear from this position that the people of Old Crow
8 perceive it's much easier for a skidoo to reach Old
9 Crow from the interior route than they do from the
10 prime route. But nonetheless the social and
11 cultural impacts that could take place are immense.

12 Now, sir, I'm going to
13 pass over much of the social impact discussion that
14 we have had on the prime route in our brief, and
15 turn to our conclusions.

16 That is on page 22. The
17 prime route from the viewpoint of the people of
18 Old Crow does have significant impact on the social
19 and cultural fabric of Old Crow primarily because
20 the calving grounds of the Porcupine caribou herd
21 will be impacted.

22 Furthermore, the prime route
23 pipeline will prejudice the Old Crow land claims
24 settlement implementation as a result of the increased
25 access by outsiders and increased pressure to develop
26 Old Crow Flats. Our recommendations are as follows:
27 1. That no pipeline be constructed until the land
28 claims of the Yukon Indian people and particularly
29 the people of Old Crow have been settled and
30 implemented.

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1 Secondly, we go into the
2 frost heave problem and the issues that have been
3 dealt with already by the Canadian Arctic Resources
4 Committee. We've followed their recommendations in
5 that regard.

6 Thirdly, we also deal with
7 the problem of slope stability, and we have a number
8 of recommendations in that regard as well.

9 I would like to turn now to
10 the fourth issue that we raise, that of winter
11 construction. That is on page 16 of Section G.
12 The schedule of northern construction proposed by
13 Arctic Gas has, in our opinion, not allowed sufficient
14 flexibility in their scheduling of winter construction
15 to enable them to keep on their proposed schedule.
16 It is our view that the applicant has over-estimated
17 manpower productivity and underestimated the number of
18 shutdown days due to technical problems, weather
19 conditions, and labor stoppages, and shutdowns based
20 on environmental grounds by the monitoring agency.

21 The following problems will
22 occur:

23 . If the applicants fail to complete their North
24 Slope construction in one season, it will require
25 an additional summer's presence and preparation
26 along the North Slope.

27 . It will also require a second year of winter
28 activity or in the worst case, an extension of
29 construction into the spring for cost reasons.

30 . It will mean additional impact with men moving

1 in and out of the region.

2 . The shutdown phase in late spring may only
3 come about as a result of environmental damage that
4 occurs if the winter roads deteriorate.

5 . The repeated use of an area by snow roads has
6 not been adequately assessed and we are uncertain of
7 what environmental damages would follow if a winter
8 road were to follow the same route in successive
9 years.

10 The evidence presented
11 before this Inquiry, Mr. Commissioner, relating to
12 pump station, the gas line, the small diameter gas
13 line between pump stations No. 1 and No. 4 caused
14 us great concern. The panel presented by Arctic
15 Gas was made up of the same parties that were part of
16 the consortium that actually constructed that line.
17 The line was constructed from a snow road alongside
18 the Alyeska haul road.

19 THE COMMISSIONER: You mean
20 Arctic Constructors project?

21 MR. VEALE: That's right.

22 THE COMMISSIONER: Well, I
23 think they all conceded that it was a fiasco.

24 MR. VEALE: They conceded it
25 was a fiasco and they dismissed it, sir, because
26 they don't think it will happen again; but I am
27 submitting that the problems that occurred on that
28 project are the same problems that are going to
29 occur on the North Slope. The problem being that the
30 ditching equipment that they had on that particular

1 project did not work and they had to resort to
2 blasting. Now, blasting is the precise thing that the
3 applicant has indicated will occur on the North Slope
4 if they fail to have the famed 810 ditcher ready to
5 go on time. Now, if the blasting occurs, all the
6 problems of the catchup in backfilling and covering
7 up will occur and the two segments of the pipeline
8 construction will be completely out of schedule.

9 They can work in the insula-
10 ted buildings and have their pipes welded together
11 properly, but when they place it in the ditch and
12 return all the spoil and so on that has been blasted
13 across the pad, they will have the same problems that
14 occurred on that particular project.

15 Mr. Commissioner, I'd now like
16 to turn to the final segment of our presentation, and
17 that is entitled "The national interest," page 81.

18 The application of greatest
19 concern to the Council of Yukon Indians at this Inquiry
20 is the Arctic Gas proposal which we see as essentially
21 an American proposal to transport American natural gas
22 through Canada. The marginal benefit to Canada of
23 piggybacking Mackenzie Delta gas in the same pipeline
24 has become dubious as a result of the discouraging
25 natural gas reserves in the delta.

26 We feel that the Canadian
27 national interest must be viewed both from a cost
28 point of view as well as the alleged marginal benefit.
29 One important aspect of the Canadian national interest
30 is, of course, settling and implementing native land

1 claims. There is more than simply a regional interest
2 because the implications of recognizing or disregarding
3 aboriginal title will have implications national in
4 scope.

5 If the Canadian national
6 interest is to be seriously considered, and if the
7 regional interest of Northern Canada are to be
8 recognized as an essential part of the national
9 interest, then clearly there can be no pipeline.

10 Of similar national concern
11 is the survival of the community of Old Crow and the
12 Porcupine caribou herd, a truly unique relationship
13 between man and wildlife in which man has not
14 destroyed the environment around him. Surely that
15 harmonious relationship between man and the land for
16 over 1,000 years should not be sacrificed for a 20 or
17 30-year supply of natural gas to the United States.

18 The argument is even more
19 compelling when one considers the prime and interior
20 routes are not the only avenues available to transport
21 Prudhoe Bay natural gas to the United States. Mr.
22 Genest enquired of me, and I advised him that the
23 El Paso route is acceptable to the Council for Yukon
24 Indians.

25 Another consideration of great
26 concern is the tremendous American political pressure
27 already in evidence will dictate the character and
28 speed of the construction program. Once construction
29 is commenced, the primary interest will be that of the
30 American consumer in determining the ultimate cost to

1 be paid for the natural gas. The result is that the
2 Canadian interest in the welfare of native people,
3 its northern environment, and its sovereignty may
4 be compromised in the interests of the American
5 consumer.

6 Once the pipeline is construc-
7 ted the bargaining power of Canada is diminished and
8 the decision to loop the pipeline is dictated by
9 American consumer requirements and the available
10 production of natural gas in Prudhoe Bay or Naval Petro-
11 leum Reserve No. 4.

12 Furthermore, if we are
13 correct in our assumption that complete disregard of
14 the interests of northern natives will result in
15 violence, the integrity of the pipeline becomes
16 essentially in the national interest of the United
17 States. We submit that the dollar cost to the Canadian
18 Government over the long term of the pipeline will
19 be substantially greater than any marginal benefits
20 of piggybacking Canadian resources to southern markets.

21 Our worst fear, Mr. Commis-
22 sioner, in this regard is that if the pipeline goes
23 ahead despite the views expressed by northern native
24 people, the Canadian Government may become a party
25 to the project as a guarantor. The Canadian Government
26 would then be motivated to see early completion of the
27 line and the aspirations of native people of the north
28 would be sacrificed for what we feel to be a mis-
29 conceived national interest.

30 We note these self-righteous

1 pronouncements of Foothills counsel regarding an
2 American controlled Arctic Gas pipeline, while his
3 client proceeds at the same time to make application
4 abng the Fairbanks corridor for a pipeline to be
5 built in a time frame that prohibits anything more
6 than a superficial assessment of that route.

1 I will deal with that
2 timeframe later on, Mr. Commissioner. With respect
3 to the Fairbanks corridor, we submit that the applicant,
4 Arctic Gas, has failed to give adequate analysis and
5 consideration to alternative corridors. The Fort
6 Yukon corridor has received relatively little
7 attention but the Fairbanks route has become a source
8 of considerable attention but based upon very limited
9 research and analysis.

10 A great number of environmental
11 witnesses, including consultants for the applicant,
12 Arctic Gas, indicated that the Fairbanks corridor
13 appeared to be environmentally less damaging. In our
14 opinion, an adequate environmental assessment of the
15 Fairbanks corridor has yet to be conducted. We submit
16 that any assessment of the Fairbanks pipeline corridor
17 must include an assessment of the Dempster Highway
18 lateral at the outset.

19 It must be made clear that the
20 Dempster Highway lateral from the Mackenzie Delta
21 to the Fairbanks corridor will have an impact upon the
22 Porcupine caribou herd and will be an integral part
23 of that corridor proposal. We do not accept the view
24 that the Dempster Highway will have already impacted
25 the area as justification for such a pipeline routing
26 in the same way that we do not accept the existence
27 of the Alaska Highway as a justification for the
28 Foothills' application along it.

29 I advise this Inquiry, Mr.
30 Commissioner, that the proposed Foothills' route in fact

1 diverges significantly in three areas--

2 THE COMMISSIONER: The Fairbanks?

3 MR. VEALE: The Fairbanks. I
4 called it the Foothills' proposed route, but it diverges
5 in three different occasions substantially from the
6 highway and that--

7 THE COMMISSIONER: That is
8 within the Yukon?

9 MR. VEALE: That's correct, and
10 it is precisely that reason that has been presented
11 to this Inquiry as the reason for using that highway,
12 having the alignment be very close to the highway.
13 We submit that the evidence of the caribou biologists
14 indicate that a highway alone is not the severe danger
15 to the Porcupine caribou herd, but rather the heavy
16 traffic use of the highway which results on the impact
17 upon the caribou herd.

18 To the extent that a pipeline
19 development
20 contributes the major and heavy traffic use to the
21 Dempster Highway, we submit that the Fairbanks corridor
22 cannot be stated to be more acceptable from an
23 environmental viewpoint.

24 Several witnesses have made
25 qualified endorsements of the Fairbanks corridor as being
26 environmentally less damaging upon the assumption that
27 there would be no Dempster Highway lateral from the
28 Mackenzie Delta. We submit that even this qualified
29 endorsement demonstrated--has not been demonstrated
30 by expert opinion formulated from baseline data.

In fact, there is no baseline

1 data on the Fairbanks corridor. There are a number
2 of other considerations that have been urged in support
3 of the view that the Fairbanks corridor is environmentally
4 of less damage than the prime or interior routes.

5 Without reiterating the unique
6 aspects of the prime and interior routes from a wildlife
7 point of view the inference is made that because the
8 Fairbanks corridor has already been impacted by the
9 construction and use of the Alaska Highway that
10 environmental damage will be significantly reduced. As
11 this contention is not based upon hard fact, we cannot
12 accept its validity. Further, this contention has
13 absolutely no validity when one considers the social
14 and economic impacts that will occur.

15 In fact, from a viewpoint of the
16 native people living along the Alaska Highway, it is
17 readily apparent that they are less able to withstand
18 pipeline impacts. The stress that still remains in
19 communities as a result of the construction of the
20 Alaska Highway and ready access to all the communities
21 leads us to anticipate a situation of considerable
22 impact. The quandary for the Council for Yukon
23 Indians is that if we are successful in preventing
24 the social and environmental disruption to the northern
25 Yukon, we then may be faced with the same disruption
26 along the Alaska Highway where the majority of Yukon
27 native people reside.

28 It is along the Alaska Highway
29 that the timeframe for implementation of a land claim
30 settlement may be the longest simply because of the

1 previous social and economic disruptions to Indian
2 communities. The geographical isolation of Old Crow
3 has been a distinct advantage to that community. The
4 Council for Yukon Indians states that before any decision
5 is made on the Fairbanks corridor or the Fort Yukon
6 corridor, (a) that the Council for Yukon Indians
7 be funded to undertake the research to provide the
8 baseline data for all Indian communities affected by
9 the routes including the Dempster lateral as was done
10 in the case of Old Crow. (b) that the Council for
11 Yukon Indians be funded to undertake a pipeline
12 information program to inform Indian people and obtain
13 their views and recommendations.

14 (c) that community hearings and
15 formal hearings be conducted in the southern Yukon
16 in the same manner as in the Mackenzie Valley Pipeline
17 Inquiry. (d) Finally, that the process outlined
18 must be given the same time consideration as the
19 interior and prime route alternatives have been given.

20 The timeframe for these steps
21 to occur is in the order of three to four years. Mr.
22 Commissioner, I was pleased to see that Arctic Gas
23 counsel adopted this portion of our evidence, but I
24 would add that when they're prepared to adopt it all
25 that will be true progress.

26 Our submission is simply that the
27 Fairbanks corridor is untested and should not be treated
28 as a panacea by this Inquiry. We have studied the
29 prime and interior route of Arctic Gas and we know the
30 impact of the prime and interior routes will be

1 devastating for the Porcupine caribou herd and the
2 community of Old Crow.

3 The Fairbanks route has yet to
4 be testing through the hearing process that we are
5 requiring. I stress, Mr. Commissioner, that the lack
6 of time is our greatest concern along the Alaska
7 Highway at this time. Because this Inquiry has taken
8 place and it has been a wonderful Inquiry, I think it's
9 done a tremendous job in the Mackenzie and the northern
10 Yukon, the attitude prevails that we don't need to take
11 the same amount of time along the Fairbanks corridor.
12 That, sir, I think will be to the great detriment of
13 Yukon Indians in particular and the Canadian national
14 interest.

15 Now, Mr. Gibbs stated that with
16 respect to the Foothills' proposal along the Mackenzie
17 River Valley, that they take the position that no
18 pipeline should be built until the agreement in
19 principle has been signed. I'm encouraged by that as
20 a step in the right direction, but I am also completely
21 and totally dismayed by the reluctance of Mr. Gibbs on
22 behalf of his company, to give the same recommendation
23 for the Fairbanks route.

24 In Yellowknife, Foothills speaks
25 of the Canadian national interest and the interests
26 of native people. To date, along the Fairbanks corridor
27 and the Alaska highway, they have simply promised to
28 deliver domestic natural gas. I must say, Mr.
29 Commissioner, that with their delivery capability
30 demonstrated to date, they don't need a pipeline.

1 I would like to turn now to the
2 single agency monitoring section. The problems which
3 have been discussed and have developed in Alaska
4 through the monitoring of the Alyeska Pipeline construc-
5 tion project indicate a number of areas that we view
6 as critical in the monitoring of any large project.

7 There have been problems because
8 there has been more than one agency involved in the
9 monitoring process. There have been problems because
10 their financing is accountable to the applicant.
11 There have been problems because there has been an
12 inability for the monitoring agencies to apply a range
13 of sanctions up to and including shut-down sanctions.
14 The basic conditions that need to be met through
15 monitoring are that environmental integrity and pipeline
16 integrity and social and economic integrity be retained
17 through the development of the project.

18 In order to do this, it necessitates
19 that the monitoring agency be able to exercise a variety
20 of remedies. Now, we see that the basic principle
21 could best be met by establishing a single agency which
22 would oversee all monitoring functions. This agency
23 would be directed by a board consisting of the land
24 owners along the right-of-way. They would be directly
25 responsible to a cabinet minister and the support staff
26 for such an agency would be hired by means of a third
27 party contract rather than create an additional
28 bureaucratic burden upon the north.

29 Furthermore, we see as part of
30 this agency an ombudsman which would have been appointed

1 and of which would have--who would have an appointment
2 directly from the Parliament of Canada to ensure an
3 airing of injustices. We also see the necessity for
4 having native people perform the social monitoring
5 in their community in conjunction with native
6 organizations.

7 The single agency must be able
8 to exercise effectively a range of remedies which would
9 include at one end altering of the way of an individual
10 operator and using his vehicle on the land to the
11 other end of shutting down the entire construction
12 project. We see it as necessary to exercise these
13 remedies without being subjected to unnecessary political
14 pressure.

15 It is our view that the scheduling
16 of pipeline construction is of considerable less
17 importance than the maintenance of environmental,
18 social, economic and cultural integrity. With this in
19 mind, we see that it is both an obligation and a
20 responsibility for the monitoring agency to apply whatever
21 corrective measures are necessary to ensure that damage
22 will be averted and we see that these remedies are of
23 greater importance than the expediency of the pipeline
24 construction company.

25 We also see that this would be--
26 that it would be the single agency that would have the
27 capacity to call for the funds of a performance bond
28 either in part or in its entirety. The remedies avail-
29 able to the single agency should be exercised not only
30 on environmental grounds but on a range of specified

1 social and cultural criteria. It is in these terms that
2 the native social monitoring groups would be in a
3 position to assess the kinds of and the extent of
4 social and cultural impacts and recommend to the
5 single agency the remedies that could be exercised.

6 Financing is another issue which
7 is critical if such a single agency is to function
8 effectively. It is our view that the applicant should
9 pay the costs of monitoring but that the monitoring
10 agency should not be directly responsible or accountable
11 to the applicant. The applicant's monitoring payments
12 should be placed in a central consolidated revenue
13 fund administered by the Federal Government and the
14 funds from this central agency would be distributed
15 by the Federal Government and audited by the Federal
16 Government.

17 Timing is a critical factor
18 in assembling any monitoring agency and it is necessary
19 that the single agency be established with sufficient
20 lead time to enable it to perform its mandate effectively.

21 Mr. Commissioner, I would close
22 this part of the submission in indicating that we do
23 not feel that the National Energy Board will be the
24 appropriate agency for taking on the massive job of
25 monitoring northern development.
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1 Finally, Mr. Commissioner,
2 I turn to the section entitled " Burden Upon the
3 Applicants", Section L.

4 In this Inquiry, sir, the bur-
5 den has been placed upon the native organizations to
6 demonstrate that pipeline construction prior to
7 settlement and implementation of their land claims
8 will be prejudicial to those claims. We submit that
9 the Old Crow land claims principles will be prejudiced
10 with the building of either the interior or the prime
11 routes of the pipeline. We submit that the impacts
12 anticipated by the people of Old Crow will change the
13 people, the caribou and the land, and in doing so
14 prejudice their claims.

15 Of course, the burden of
16 proof for the project rests entirely with the appli-
17 cant. We submit that the applicants have not demon-
18 strated conclusively that the technology exists for the
19 safe construction of a gas pipeline as could be done
20 in southern regions of Canada. The existence of
21 permafrost and ice-rich soils has presented an
22 obstacle that the applicants have not overcome during
23 the many months of this Inquiry. The acknowledgment
24 by Arctic Gas at such a late date that its tests
25 were inadequate with respect to the solution of the
26 frost heave problem simply highlights a major failure
27 of the pipeline companies. The failure of the
28 applicant to have appropriate test facilities along
29 the Arctic slope can only lead to the conclusion that
30 they are not confident in placing the test results

1 before public scrutiny. The inability of the
2 applicant to consider the economics of the Mackenzie
3 Valley and the Northern Yukon except in terms of
4 being areas of economic depression highlights their
5 misunderstanding of the social and cultural fabrics
6 of the people of these regions.

7 In our submission, the very
8 nature and scale of the Arctic Gas project is such
9 that they will never succeed in obtaining a positive
10 reaction from the communities along the pipeline
11 routing. If we view the employment benefits as
12 creating more social and cultural problems, and in
13 fact resulting in the Mackenzie Valley and Northern
14 Yukon region, perhaps becoming a depressed economy
15 when those native people who do obtain employment
16 find themselves unable to return to their original
17 relationship with the land before the pipeline
18 development.

19 However, the lack, of social
20 and economic benefits brought to the region is further
21 aggravated by these social and economic costs that
22 will be contributed by the project. It is our submis-
23 sion of course that these costs be borne entirely by
24 the applicant. This must be done both pre-development
25 impact funding and post-development impact funding
26 regardless of government revenue obtained from the
27 project. The development of the hinterland by the
28 metropolis for the sole benefit of the metropolis
29 is an economic and social process that can no longer
30 be sanctioned. However, the assessment of social and

economic costs related to the pipeline development is in the infancy stage and we recommend that research and the construction of a model for this assessment be prepared prior to the pipeline development.

We reiterate that in our view the construction of the gas pipeline and subsequent corridor development will have a disastrous impact upon the people and the environment of the north and will trigger a violent reaction if native rights and title are not fully recognized.

Now, Mr. Commissioner, we see that this Inquiry process that you have embarked upon as the first really positive step that the Canadian Government has taken to really and truly consult the native people north of 60. As you have said, the Inquiry has been full and fair, and you have lived up to that promise, and the advantages I feel are evident already during the Inquiry process, in that geotechnical inadequacies and failures have been pointed out, and it has also provided an excellent opportunity for the native people and non-native people of the north to come to grips with the implications of this project.

We hope, too, that the people of Southern Canada have learned through this process and that this will be evident in the consideration that the government gives to your report. Sir, I urge you to take all the time in the world to complete your report. It is a massive undertaking and pressures from all sources, whether they be Canadian, American

1 or otherwise are really irrelevant to yourself in
2 this regard because the quality of your report is
3 clearly a very important aspect in completing this
4 Inquiry process.

5 On a personal note, sir,
6 and on behalf of the people of Old Crow, I thank you
7 very much for conducting this Inquiry in the manner
8 that you have.

9 THE COMMISSIONER : Thank you,
10 Mr. Veale.

11 MR. SCOTT: Sir, Mr. Bell is
12 anxious to be heard today, if that can be arranged,
13 and I think we can probably hear him.

14 THE COMMISSIONER: Yes, that
15 can be arranged. I said that we would hear the
16 Metis Association as well. You might speak to Mr.
17 Bell and Mr. Hardy and see if they both want to
18 proceed this afternoon.

19 Right now I'm going to take
20 a five-minute break, though. There's more coffee.

21 (PROCEEDINGS ADJOURNED FOR FIVE MINUTES)
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(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

MR. SCOTT: Mr. Bell, counsel for the Indian Brotherhood of the Northwest Territories.

THE COMMISSIONER: I think we'll just pull ourselves together and pay attention, shall we? Right, let's go.

MR. BELL: Mr. Commissioner, it seems like only yesterday that I was standing in this place giving my opening address to the Inquiry. You may notice that I'm wearing the same suit. You'll probably also notice a certain similarity in what I'm about to say.

But before I begin, I want to join all of the counsel who have spoken so far in offering my appreciation for the outstanding way in which you have conducted this Inquiry. It's with a good deal of pride and even more gratitude that I view my association with this Inquiry. I hope it won't be considered presumptuous if I also offer my congratulations to Commission Counsel for a difficult task well performed.

I wish to express also to all of the counsel, both lay and professional, that I've had the pleasure of working with, or against as the case may be, that it has been indeed a privilege.

This pipeline project has been described approvingly as one of the most massive undertakings in Canadian history, as if magnitude itself

were a value cherished by Canadians. The Dene, on the other hand, have long been aware of the steady erosion of their universe by a variety of projects which have been erroneously described as "development". Although all of these projects have had a destructive impact on the Dene, none by themselves threatened the very survival of the Dene in the way that the proposed Mackenzie Valley Pipeline so clearly does.

This project is indeed massive and from a Dene perspective, genocidal in impact. If the magnitude of the project were to be accurately quantified the appropriate standard would be lives, not dollars or miles. The cost should be measured in terms of the existence of a people, a nation, and in terms of the sanctity of human rights, none of which can be assessed through the mere application of capitalist logic.

Indeed if this were not the case this Inquiry would have been unnecessary. Elsewhere in the country the erosion of community and the pervasiveness of the authority of the so-called market have made the true social cost of private investment decisions much more difficult to assess or even detect. In the Mackenzie Valley, this is clearly not the case. Here, where a majority of the population form a nation with a distinctly different history and world view, and where the development of economic classes within that majority is virtually non-existent the conflict between corporate decision-making and social interest is very clear.

1 This conflict is deepend by the
2 fact that it is very difficult to cloak the proposed
3 pipeline in the guise of the Canadian public interest,
4 since it is motivated primarily by non-Canadian
5 concerns.

6 For the Dene, therefore, it is
7 the decision-making process itself which must be the
8 primary concern of this Inquiry. It is the well-
9 substantiated position of the Dene, as an aboriginal
10 nation occupying the Mackenzie Valley, that no condition
11 governing the implementation of this project approaches
12 the significance of recognizing their national rights.

13 Furthermore, while the Dene
14 are aware of the variety of political interests involved
15 in the pipeline issue, they do not believe that the
16 value accorded to so fundamental an issue as their
17 right to self-determination should be subject to a
18 manipulated public opinion which is so often a determining
19 force in the allocation of national resources.

20 The Dene have consistently
21 regarded this Inquiry as a unique and fortunate event
22 in the course of their struggle to reassert their
23 national rights. They have indicated by their
24 participation in their hundreds the importance they
25 attach to your task. Not since the time of the treaties
26 have the Dene expressed their faith in the people of
27 Canada in an equivalent fashion.

28 It was not to quibble over the
29 terms and conditions governing the construction of a
30 pipeline that the Dene have come to this Inquiry. It was

1 to seize the opportunity, not afforded in your absence,
2 to have their most fundamental human rights recognized
3 in what might otherwise have been a mere economic
4 equation.

5 It is the hope and belief of the
6 Dene that your Inquiry will accept the challenge their
7 national existence poses to the people of Canada, the
8 challenge of placing this country unambiguously amongst
9 those societies which prize human rights far above
10 mere economic values, the challenge of redeeming the
11 appalling history of this country's treatment of its
12 aboriginal peoples, the challenge of dealing with the
13 Dene as a people with political rights and not as an
14 obstacle to be overcome by the application of more money
15 and more power.

16 If the challenge before this
17 Inquiry is taken up, the implications will extend far
18 beyond Canadian borders. The Dene have explicitly
19 linked their struggle with that of aboriginal peoples
20 the world over. Many of these people will never have
21 the opportunity even to make their case known because
22 of the repressive conditions under which they are
23 forced to exist.

24 A commitment by the people of
25 Canada to recognize the rights of the Dene will
26 therefore establish a precedent of vital importance
27 to the struggles of all aboriginal peoples. In fact,
28 we have recently learned that the Dene declaration has
29 been translated into Portuguese and Spanish and is
30 being distributed to people in Brazil and other countries

1 in Latin America.

2 In our argument today we do not
3 propose to engage in a detailed review of the evidence.
4 We do intend to present to you our view of the major
5 propositions and conclusions which the evidence supports
6 and we will do this in the following manner:

7 First, we will offer an analysis
8 of the history of the Dene with emphasis on their
9 recent experience with colonialism. We will draw out
10 the implications of colonialism in every sphere of
11 Dene life; economic, political and cultural, implications
12 which can only be characterized as cultural genocide.
13 We will show how, in spite of the deleterious inroads
14 of colonialism, Dene culture has continued to survive
15 and how the Dene have resisted the assaults of
16 colonialism.

17 This will lead us to an
18 examination of the awakening of the national
19 consciousness among the Dene and its expression in the
20 Dene rights position recently presented to the Government
21 of Canada. We will elaborate on the main tenets of that
22 position and the support they find in the evidence
23 before this Inquiry.

24 In short, the Dene seek, in that
25 position, recognition of their right to self-determination
26 within Confederation and the establishment of the
27 necessary institutions, legal protections and official
28 practices which will give full effect to that right.

29 It is this position, which has
30 been mislabeled a "land claim", on which the Dene seek

1 to obtain agreement with the people of Canada, and it
2 is this position which we maintain will be prejudiced
3 by the prior approval and construction of the proposed
4 pipeline.

5 The Dene rights position must
6 involve a review of the issue of development, how
7 development should be defined and the vision of
8 alternatives to colonialism that is perceived by the
9 Dene.

10 Next we will turn to the impact
11 of the proposed pipeline and delineate in specific
12 terms how it would fit into and accelerate the
13 colonial process in the Northwest Territories.

14 Before concluding with our
15 formal request for recommended terms and conditions,
16 a short comment will be made on the arguments of
17 other participants including the question of the burden
18 of proof.

19 I want to turn now to a brief
20 review of Dene history. The Dene have occupied the
21 area now known as the Mackenzie District for hundreds,
22 and possibly thousands of generations, since time
23 immemorial. Through these thousands of years, the Dene,
24 a people, a nation, decided for themselves how they
25 would live. They developed their own values and their
26 own understanding of the world. They developed their
27 own languages and laws, and based their actions on their
28 own laws and understanding of the world. Both before
29 and after the arrival of the European the Dene were a
30 nation determining their own destiny.

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2 However, non-Dene with different
3 values, different languages, different laws have come
4 onto traditional Dene lands and invaded Dene society.
5 Rather than live together in peace as they promised,
6 the non-Dene have actively tried to force the Dene
7 to think, act and become like the non-Dene. Rather
8 than recognize the Dene rights as owners of the land,
9 as they promised, non-Dene have taken resources from
10 the land for their own profit.

11 Rather than recognize the right
12 to self-determination of the Dene, as they promised,
13 non-Dene have taken power from the Dene, judged the
14 Dene to be inferior and have attempted to control and
15 make decisions for the Dene nation. What has happened
16 is much worse than the fraudulent expropriation of
17 land and resources. What has happened is the theft
18 of the history and humanity of a people. This is
19 cultural genocide. The process through which it has
20 occurred is colonialism.

21 This process was set in motion
22 long before the treaties of 1899 and 1921. It began
23 with the earliest intrusion of the European into
24 Dene territory. The first milestone in the process of
25 colonialism was reached in 1789 when, after the Dene
26 had shown Alexander Mackenzie the way down to the
27 Arctic Ocean, Deh-cho, the great river, was renamed
28 to Mackenzie. This ethnocentric arrogance has been
29 the persistent underlying feature of non-Dene attitudes
30 and actions for two hundred years.

It is given concrete expression

1 in every aspect of Dene life.

2 In the early days of European
3 contact the fur trade was the primary way in which
4 the Dene and non-Dene related to each other. The
5 traders ^{depended} on the Dene for their survival, both in terms
6 of food and the fur which kept them in business. In
7 turn, the Dene became dependent on the traders for
8 traps, for basic provisions like tea and flour, and
9 for other items such as axes and guns. Originally,
10 these goods were purchased by the Dene through the
11 barter of food and fur. But by the end of the
12 nineteenth century money had become the medium of
13 exchange.

14 As long as the traders were
15 dependent on the Dene for food and fur, the Dene
16 commanded respect.

17 Improvements and transportation
18 to the north in the late nineteenth century allowed the
19 traders to import their food supplies and the balance
20 of dependency between trader and trapper began to
21 shift. The Dene's dependency on the cash sector was
22 further enhanced by the availability of a wider range
23 of trade goods.

24 White trappers soon began to
25 enter the upper Mackenzie region in large numbers. With
26 the monopoly of the Hudson's Bay Company broken, fierce
27 competition and reckless trapping led to the depletion
28 of game in some areas. Restrictive game laws also
29 interfered with the ability of the Dene to gain their
30 livelihood as trappers and hunters.

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1 of the dominant Dene values. These include mutual
2 sharing of bush resources, a respect for hard work
3 and industriousness, and a desire for independence
4 and self-reliance.

5 That these values are alive and
6 thriving, despite the impositions of colonialism, is
7 amply borne out by the testimony at the community
8 hearings as well as by the study of the importance of
9 country produce conducted by the people of Fort
10 Franklin and presented here by Mr. Rushforth.

11 I want to digress briefly at
12 this point, Mr. Commissioner, and refer to a recommen-
13 dation in Commission Counsel's submission that a
14 system be established under government auspices to
15 measure the actual quantity and value of food production,
16 country food production for the region. I fear that
17 this suggestion reveals a failure on our part to get
18 the point across as far as the Fort Franklin study is
19 concerned.

20 The purpose of that study was
21 twofold:

22 (1) To demonstrate that official statements about
23 the continuing importance of country food were unre-
24 liable, and more importantly,

25 (2) To show to the non-Dene what the Dene already
26 know, that Dene culture is a living developing phenomena
27 which cannot be quantified by measuring the monetary
28 value of country produce.

29 We wonder, therefore, what
30 purpose would be served in the implementation of

1 Commission Counsel's recommendation that would
2 justify the invasions of privacy and harassment such
3 a system would necessarily entail?

4 To return to the main theme.
5 The period following the Second World War saw the
6 commencement of massive governmental intrusion into
7 the economic life of the Dene, primarily as a source
8 of cash in the form of transfer payments, and
9 employment, but also as the instigator of non-renewable
10 resource development.

11 The fur trade had drained away
12 economic surplus produced by the Dene, thereby under-
13 developing the north and enabling the Hudson's Bay
14 Company to build its empire elsewhere in Canada and in
15 places like racist Namibia. But the fur trade did
16 not demand that the Dene give up their land, nor did
17 it result in the influx of non-Dene settlers in large
18 numbers with their political and cultural baggage.
19 It did not require the Dene to sell their labor for
20 wages, nor did it directly endanger the renewable
21 resource base.

22 However, in the transition of
23 the regional economy from a reliance on one major
24 staple (fur) to a reliance on another major staple
25 (mineral, including petroleum) all of these now become
26 very real threats, and the process of colonialism is
27 intensified.

28 If the Government of Canada
29 ever gave any thought to the revival of the fur trade
30 or to the strengthening of the renewable resource

1 sector, it was quickly forgotten in the obsession with
2 non-renewable resource extraction.

3 As a result of the expansion
4 of the non-renewable resource sector the --

5 THE COMMISSIONER: Would
6 you repeat that last sentence?

7 MR. BELL: I said that if
8 the Government of Canada ever gave any thought to
9 revival of the fur trade or to strengthening the
10 renewable resource sector, that it was quickly for-
11 gotten in their obsession with non-renewable
12 resource extraction.

13 As a result of the expansion
14 of the non-renewable resource sector, the gross
15 domestic product per capita in the Northwest Terri-
16 tories far exceeds the corresponding figure for Canada
17 as a whole. But colonial control has meant that the
18 sizeable economic rents produced from mining and
19 hydrocarbon extraction are not used in the region to
20 benefit the renewable resource sector upon which the
21 Dene rely.

22 Moreover, the non-renewable
23 resource sector has also damaged the physical base of
24 the renewable sector.

25 Because activity in the
26 non-renewable sector is invariably initiated and
27 controlled by outside agencies and corporations the
28 economic rents are drained out for investment elsewhere.
29 Dene property rights -- their rights as landlords to
30 receive royalties and to set conditions on industrial

1 activity -- have been ignored by the corporations
2 and by the government. But this is characteristic
3 of a colonial economy and a colonial mentality.

4 The growth of the non-
5 renewable resource sector brought an influx of non-
6 Dene settlers aided and encouraged by the Federal
7 Government and its local colonial establishment, the
8 Government of the Northwest Territories. The needs of
9 these settlers combined with the assumption of racial
10 and cultural superiority led to the imposition of
11 non-Dene political institutions, a non-Dene educational
12 system, and a host of other non-Dene authorities
13 including those which control housing, health, and
14 social assistance.

15 In the political sphere
16 Dene political institutions were over-ridden, ignored
17 and replaced. The process whereby non-Dene institu-
18 tions of local government were introduced has been
19 well-documented before this Inquiry, as has the
20 fact that these bodies are controlled by and serve
21 the interests of non-Dene settlers, even where the
22 Dene may constitute a majority on the local council.
23 Of course, the Territorial Council is merely the same
24 process writ large, and the Government of the North-
25 west Territories cannot even pretend to be anything
26 other than the local agent of the central non-Dene
27 government.

28 Now despite the challenges
29 of systems of government which reflect values
30 opposed to or divergent from those of the Dene, the

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1 languages, history and values, as well as on individual
 2 autonomy and self-respect, we must look to the system
 3 of compulsory public schooling which was instituted in
 4 the 1950s.

5 No doubt your memory calls
 6 up, as does mine, the faces and voices of the young
 7 men and women who appeared before you to describe the
 8 terror of being torn from their families at the age of
 9 five or six to spend ten months a year for the next
 10 ten years in a government hostel, the degrading
 11 punishments endured for the crime of speaking their
 12 own language, the denial of Dene values and history,
 13 the inculcation of a foreign culture and the inevitable
 14 feelings of inferiority and worthlessness, the under-
 15 mining of personal autonomy and the fostering of
 16 dependence on authority. (This is the process that
 17 has produced what Arctic Gas and its witnesses blithely
 18 refer to as "change").

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1 The recent history of the
2 Dene is a story of struggle, the struggle of a people
3 for self-determination and against colonial control,
4 for national survival and against cultural genocide.
5 This struggle is a part of Dene culture, and it is
6 given graphic form in the set of maps which were
7 presented by the Dene to this Inquiry. You will recall
8 that they took up a sizable part of the wall behind
9 me here. I want to say, I want to emphasize what the
10 meaning of these maps is. I think it's essential to
11 understand them as a representation of a culture, a
12 web of relationships among the Dene, and between the
13 Dene and their land, which constitute a way of life.

14 The maps record the actions of
15 self-determining Dene as well as the impact of
16 colonialism. They record, on the one hand, the extent
17 of Dene activity on the land when colonial impact was
18 negligible, and, on the other, the effects of more
19 recently externally imposed factors such as compulsory
20 schooling, settlement-based services, and non-Dene
21 concepts of development.

22 They show more than mere
23 "land use", and there are those who have criticized
24 them for not being like the kind of maps that they
25 are used to, the kind which are designed to show the
26 commodity value and the uses of land. Such criticism
27 derives from a colonial perspective, which requires
28 the colonized to explain themselves in the terms of
29 the colonizer. It assumes that the present status
30 of the Dene Nation is the product of the exercise of

1 free choice on the part of the Dene and therefore
2 that colonialism will continue. But it is the struggle
3 against colonialism that these maps portray.

4 The maps also establish the
5 factual basis of aboriginal title, but just as the
6 Fort Franklin country food study was not intended to
7 establish criteria by which life on the land could be
8 quantified, the maps do not convey any notion of
9 relative land values which might lend themselves to
10 quantification for compensation purposes. The Dene
11 universe portrayed through these maps is invaluable.

12 Furthermore, since the Dene
13 universe clearly involves the element of control
14 implicit in the right of national self-determination,
15 the impact of any proposed development on the lands of
16 the Dene cannot be measured on the basis of its
17 conflict with discrete land use, but must be assessed
18 on the basis of the extent to which it undermines the
19 security of Dene rights and the Dene universe they
20 are meant to protect.

21 I want now to turn our attention
22 to the Dene rights position.

23 Most of the threats to the Dene
24 way of life presented by colonialism were introduced
25 piecemeal and over a period of years. Although there
26 was resistance, it was not well organized. But near
27 the end of the 1960's and coincidental with the
28 early hey-day of petroleum exploration, the movement
29 for decolonization and self-determination began in
30 earnest.

The Indian Brotherhood of the Northwest Territories was founded in 1971 and immediately began to assert that land claims, as they were then called, be settled prior to any major projects going forward in the Mackenzie District. In 1973 the Caveat Case was started in the Supreme Court of the Northwest Territories. At Fort Good Hope in 1974 the Dene asserted that they wanted their rights as a people recognized, not extinguished. A year later at Fort Simpson the Dene Declaration further clarified the Dene position as a struggle for self-determination.

Such formal acts are only indications of the broader struggle for decolonization now under way among the Dene, and which proves conclusively that Dene culture is alive and developing.

To refer to this phenomenon as a resurgence of pride as has been done by Arctic Gas is a faint reflection of the true picture. It is a political movement. It is however, accurate to say that it is not going to go away.

The movement for self-determination received its most recent expression on October 25, in the presentation to the Government of Canada of the Dene's proposed Agreement in Principle for the recognition of their rights.

The main tenants of the Dene Rights position, as it has been presented to the Government of Canada and to the Inquiry are as follows:

- 1 1. The Dene have the right to recognition, self-
2 determination growth and development as a people and
3 as a nation.
- 4 2. The Dene as aboriginal people, have a special
5 status under the constitution of Canada.
- 6 3. The Dene, as aboriginal people, have the right to
7 retain ownership of so much of their traditional lands,
8 and under such terms, as to ensure their independence
9 and self-reliance, traditionally, economically and
10 socially, and the maintenance of whatever other rights
11 they have.
- 12 4. The definition of the Dene is the right of the
13 Dene. The Dene know who they are.
- 14 5. The Dene have the right to practice and preserve
15 their languages, traditions, customs and values.
- 16 6. The Dene have the right to develop their own
17 institutions and enjoy their rights as a people in
18 the framework of their own institutions.
- 19 7. To accomplish these ends, there must be within
20 Confederation a Dene government, with jurisdiction
21 over a geographical area and over subject matters now
22 within the jurisdiction of either the Government of
23 Canada or the Government of the Northwest Territories.

24 I would like to indicate
25 now the sources drawn on by the Dene for support in
26 this position and to delineate the issues it raises.

27 To begin with, the Dene are
28 a distinct people, a nation within the accepted
29 meaning of that term, and they have occupied an
30 identifiable territory since time immemorial. They

1 have not surrendered any of their rights. The evidence
2 of these facts is not disputed before this Inquiry.

3 The Dene have legal rights of
4 ownership (property rights), in the land they have
5 traditionally occupied. They have called for the
6 conversion of this "aboriginal title" into a form
7 compatible with the Euro-Canadian legal system. They
8 have rejected any suggestion that the extinguishment
9 of their property rights would be acceptable.

10 While the Courts may be able
11 to give legal recognition to the existence of aboriginal
12 title, they cannot convert it into a form needed by
13 the Dene. That can only be done through legislation.

14 The Treaties 8 and 11, the
15 written versions of which purport to support aboriginal
16 title to the Crown, do not reflect the actual
17 agreements reached between the Dene and the Crown.
18 The Dene signatures on those treaties, when not
19 forged, were induced by fraudulent misrepresentations
20 on the part of the government negotiators.

21 The property rights of the
22 Dene still exist. But the notion of aboriginal rights
23 includes more than mere property rights. International
24 law recognizes important human rights, and these rights
25 are legal rights, not just moral imperatives.

26 The most important of these is
27 the right to self-determination. Article 1 of the
28 International Covenant on Economic, Social and Cultural
29 Rights of 1966, and Article 1 of the International
30 Covenant on Civil and Political Rights, 1966, states:

" All peoples have the right to self-determination.
By virtue of that right they freely determine
their political status and freely pursue
their economic, social and cultural
development."

Article 27 of the International
Covenant on Civil and Political Rights recognizes the
right of minorities to enjoy their own culture.
Although the Covenant has not been signed by Canada,
the principle is one recognized by customary
international law, and is thus binding on Canada. The
basic prerogative of a distinct people to maintain
their cultural identity is also recognized in the
Genocide Convention.

Not only is the Dene's position
based firmly on existing legal rights, as we have seen,
it is also a position that falls squarely within
the letter and spirit of the Canadian Constitution.

The formal creation of a Dene
territory is entirely within the legislative competence
of Parliament. All that would be required is some
ingenuity in working out the details of the powers,
land area, and constitution of the Dene Nation --the
final design as the engineers would call it. These
would be the major items for negotiation between
the Dene and the people of Canada.

1 Indeed, the Canadian
2 Constitution itself is the expression of the desire
3 of Canadians to permit the collective well-being
4 of distinct national groups within the federal state.
5 Moreover, the principle of regional autonomy (in the
6 form of provincial jurisdiction) is also an essential
7 element of the Canadian Constitution.

8 The correctness and validity
9 of the Dene rights position also finds support in
10 the experience of colonized peoples elsewhere in the
11 world.

12 All aboriginal people have a
13 special relationship with the land and the environment
14 they inhabit, a relationship that is religious in
15 quality and which forms the foundation of their
16 view of themselves as distinct peoples and nations.
17 The evidence shows that when this special relationship
18 with the land is disturbed by outside forces there
19 follows a variety of destructive social phenomena --
20 alcoholism, crime, family breakdown, poverty --
21 which become the permanent affliction of the community.
22 Colonized people everywhere exhibit these reactions to
23 colonialism.

24 This has happened in Canada
25 whenever Indian land was expropriated and turned over
26 to uses -- to other uses without first evolving adequate
27 political institutions to ensure the survival of
28 native peoples. The opening of the west to settlement
29 and agriculture is a good example. The clear-cutting
30 of timber over large tracts of Indian land in British

1 Columbia is another.

2 Elsewhere in the world this
3 analysis is confirmed. In Australia, New Zealand and
4 Latin America the disruption of their relationship
5 with the land has brought ruin on native peoples. One
6 need not go so far as to require evidence of man-made
7 atrocities in Brazil to see that the Amerindians have
8 suffered. It is not guns and disease which are the
9 primary causes of the long-term disruption of aborig-
10 inal peoples in that country, it is the transformation
11 of the land into mines, roads, plantations and pastures.

12 (The fact that some native
13 groups here and there have managed to survive in an
14 attenuated form is more a testament to the
15 tenacity of native cultures than a vindication of
16 colonial policies).

17 There are other lessons to be
18 learned from the experience of natives and other
19 colonized peoples. From James Bay the experience of the
20 Cree tells us that to proceed with massive developments
21 before native rights have been recognized will prejudice
22 those rights and lead to an imposed solution. Negotia-
23 tions in which one party is subjected to undue pressure
24 by the other result in bad agreements. In the case of
25 James Bay we see an agreement the primary features of
26 which are the surrender of Indian control over the
27 land and the transformation of the land to a use
28 unwanted by the Cree and inconsistent with their whole
29 way of life.

30 The Indians of Northern Manitoba

1 have seen their reserve lands flooded by a hydro
2 development project. The Federal Government,
3 protector of the Indian interest, stood by and watched.
4 The lessons are clear. Mere property rights are not
5 enough to protect Indian lands from the encroachments
6 of industrial society, and the Dene cannot rely on the
7 Federal Government to provide any protection.

8 Therefore the Dene must
9 have political control, and they must rely on
10 themselves.

11 From Alaska the Dene have
12 learned many lessons. Among them that they must have
13 their rights recognized while they are still a majority
14 in the Mackenzie District; that the hierarchical corpor-
15 ate form of organization is inappropriate to the
16 achievement of the values prized by the Dene; that even
17 if the project is postponed until after a settlement,
18 it is still difficult to get the kind of settlement
19 preferred by native people when faced with the power
20 of the petroleum industry.

21 I also want to cite some
22 examples which provide positive support for the
23 Dene position. We can look to the Third World for a
24 compelling example. The period since World War II
25 has seen the dramatic rise in nationalism in the
26 Third World. The concept of the nation and the politi-
27 cal reality of nationalism have proved to be the most
28 effective tools for resisting continued European hegemony
29 in colonized areas of the world. The nation seems to
30 provide a framework large enough and focussed enough

1 within which to realize the goals of people.

2 In New Zealand we find as George
3 Manual put it, clues that a greater degree of
4 political autonomy (which remains at a token level in
5 that country) leads to the enhancement of national
6 culture.

7 The evidence of Dr. Sam Stanley
8 in its examination of economic development in Indian
9 communities shows in one dimension the achievements a
10 people may be capable of when exercising control over
11 their economic life.

12 The assertion of the right to
13 self-determination by the Dene is therefore a condi-
14 tion which seems to be necessary, reasonable and
15 feasible. But can we be more explicit about the
16 vision of the future the Dene hold for themselves?
17 Suppose self-determination were achieved, what would
18 the Dene do with it?

19 In other words, what path
20 would development follow in a Dene territory? It is
21 of course impossible to predict with certainty the
22 exact form development would assume, but already the
23 Dene are trying to formulate their ideas about the
24 type of alternative development they want to pursue
25 and to identify the principles on which to proceed.

26 A statement worked out at an
27 Indian Brotherhood workshop of regional field workers
28 in October of 1974 is suggestive. It is entitled,

29 "What does development mean for the Indian
30 people of the Mackenzie District?"

1 And it answers that question this way:

2 . It means development by the community rather
3 than by outsiders.

4 . It means not participating, even as workers,
5 in activities you cannot control

6 . It means getting expertise when it is needed in
7 the form of short-term technical assistance without
8 giving up ownership.

9 . It means long-term planning and priorities.

10 . It means continuity with the past, by complementing
11 and reinforcing traditional pursuits, and by drawing
12 on the community's experience.

13 . It means communities relating to each other,
14 regionally and for the Mackenzie District as a whole.

15 . It means a process which unites and builds up
16 the community's sense of self and the sense of self of
17 all its members.

18 . It means that development is implemented in a
19 way that fits the Dene way of doing things (which is
20 not the same as the government's way or the companies'
21 way).

22 . It means learning by doing, so that development
23 becomes an ongoing, self-reinforcing process

24 . It means greater economic independence and greater
25 political autonomy.

26 . It means maintaining an egalitarian and sharing
27 society.

28 . It means setting an example for Canada.

29 . It means growth in Dene communities .. not only
30 economic development but cultural, social, political,

1 and spiritual development, and the sum is greater than
2 the parts.

3 In more concrete terms it is
4 highly probable that a self-determining Dene nation
5 would seek to give effect to those values which were
6 earlier mentioned in association with the cultural
7 significance of bush collection. Economic developmen t
8 is likely to be based on renewable resource harvesting
9 through projects that are community-initiated and
10 controlled and operated on a scale appropriate to the
11 size of the community.

12 The movement toward a Dene
13 system of education also provides some indication of
14 the values which Dene development will try to implement.
15 Its primary goal is to permit the development of
16 autonomous individuals who are in close touch with
17 their culture, and who are aware of the choices they
18 make and accept responsibility for those choices.
19 The daily content of the system flows out and supports
20 Dene culture. Non-Dene experts are subject to the
21 direction of the Dene. There is ideally no bureaucracy.

22 I might add that many of these
23 are also the values expressed in the daily operation
24 of the Indian Brotherhood.

25 It is not unrealistic to expect
26 that a Dene nation with freedom and power to do so
27 would seek to give effect to those values in every
28 sphere of life.

29 I want to turn now to a brief
30 discussion on the impact of the proposed pipeline.

1 During the presentation of
2 evidence by our witnesses many made specific allusion
3 to the proposed pipeline and how it would prejudice
4 the Dene position. I do not think it necessary to
5 reiterate all of those statements at this time,
6 although we do adopt them.

7 I would like to summarize the
8 various components of pipeline impact which, if it
9 were to be approved prior to recognition of Dene rights,
10 would entrench and accelerate the process of colonialism.

11 In the economic sphere the
12 process of underdevelopment in the renewable resource
13 which was described by Mr. Watkins,
14 sector/would be intensified.

15 A pipeline would lead to an
16 influx of non-Dene who will find it easy to participate
17 in and control the existing imposed political institu-
18 tions. Nor would it take hordes of settlers to do that.
19 The present system gives to non-Dene influence not
20 warranted by numbers alone. The non-Dene values expres-
21 sed in these institutions would be bolstered by the
22 provision of tax revenues for the use of these colonial
23 institutions. Much emphasis was made by Mr. Genest on
24 the importance of tax revenues and royalties from the
25 pipeline. The portrayal of the pipeline as a source
26 of revenue is a picture of a negative impact because
27 it will make the colonizers even more powerful and more
28 difficult to dislodge.

29 Any social dislocations caused
30 by this massive project would produce a corresponding
need for the services of non-Dene experts to man the

1 official bureaucracies. Thus the strength and size
2 of the existing colonial agencies will be enhanced
3 and the struggle for self-determination will be made
4 that much more difficult.

1 It is clear that the Dene do
2 not want to see a pipeline constructed down the Mackenzie
3 Valley. To impose a pipeline on the Dene before their
4 right to define themselves as recognized is to demonstrate
5 to them that they are not going to be allowed to make
6 their own future.

7 This will constitute a serious
8 setback for the motivation of individuals to overcome
9 their colonial conditioning. It will embolden those
10 non-Dene who feel it is their prerogative to define the
11 Dene and to make decisions for them.

12 Moreover, to push this project
13 through against the wishes of the vast majority of the
14 Dene will inevitably result in enervating divisions
15 among them.

16 The basic human rights delineated
17 earlier are part and parcel of the Dene position. If
18 they are violated, the Dene rights position is damaged
19 beyond compensation.

20 In a strictly legal sense, the
21 Dene position would be unacceptably prejudiced for the
22 reasons given by Mr. Sanders as it relates to a system
23 of conversion of aboriginal title to a type compatible
24 with the dominant legal system.

25 The pipeline will engage the
26 Dene, at least it will attempt to engage the Dene,
27 in a type of employment and a project whose organization
28 and purpose does not only fail to reflect the dominant
29 values of Dene society but is plainly antithetical
30 to them.

1 Finally, since the Dene position
2 is fundamentally about the right to decide what happens
3 on Dene land, that right would be irretrievably
4 prejudiced by a decision made unilaterally by government
5 to permit this pipeline to proceed.

6 I would like now to offer some
7 comments on argument and evidence of other participants.
8 I would first like to deal with Commission Counsel's
9 submission. While we recognize the job of Commission
10 Counsel is to take into consideration all possible
11 options and advise you accordingly, we cannot do the
12 same. The Dene have stated quite clearly that they
13 are unwilling to participate in any discussion that
14 assumes that the pipeline will be built prior to the
15 recognition of their national rights.

16 Furthermore, it has been the
17 opinion of the Dene that construction of the proposed
18 pipeline in the absence of such recognition and with
19 insufficient time for the Dene to reconstruct their
20 own political and social institutions would amount to
21 an act of genocide. The Dene cannot reasonably be
22 expected to give advise as to the least messy way to
23 accomplish this end. This view has been expressed to
24 you directly by the Dene in the community hearings and
25 is supported by expert witnesses relating evidence of
26 experience elsewhere.

27 Therefore, while we are
28 relatively satisfied with Commission Counsel's attempt
29 to understand the primary question of the national
30 rights of the Dene, and I think that may be an under-

1 statement, we must reject the remainder of the submission
2 in which the recommendations are premised on construction
3 of a pipeline in the absence of recognition of Dene
4 rights.

5 Quite simply, it is our opinion
6 that the two portions of Commission Counsel's submission
7 are contradictory and that the latter recommendations
8 are based on assumptions that the Dene cannot accept.

9 At this point, I want to make
10 a suggestion concerning the matter in which this
11 contradiction ought to be dealt with in your report,
12 sir. It is our respectful submission that the contra-
13 diction ought to be recognized openly and that the
14 two scenarios, with colonialism and without colonialism
15 ought to be treated separately, and in a way which
16 emphasizes the pre-eminence of the self-determination
17 issue.

18 I'd also, at this point, join
19 with Mr. Bayly and Mr. Veale in stressing that your
20 task is too important for your final report to be
21 anything but the best. I want to turn now to some points
22 that have been made by the applicants and the producers.

23 But before dealing with specific
24 points of contention between ourselves and the applicants
25 and producers, I think it would be useful to consider
26 the question of the burden of proof in this Inquiry,
27 at least as it relates to the issue of the settlement
28 of native claims.

29 Is the burden on the Dene to
30 prove that their position will be intolerably prejudiced

1 if a right-of-way is granted prior to an agreement with
2 the Government of Canada?

3 Or, is the burden on the
4 applicants to show that a prior grant of right-of-way
5 would not unduly prejudice the Dene position?

6 Although the Dene have conducted
7 their case as if the onus were on them to prove
8 prejudice because in the absense of a ruling on this
9 question it would have been imprudent to do otherwise
10 nevertheless it is our submission that the onus ought
11 to be on the applicants to prove no prejudice.

12 The criteria of international
13 law give us some guidance on this issue. In international
14 law interpretations are required to be made in favor
15 of dependent weaker peoples who are asserting rights
16 such as the right to enjoyment of their culture. The
17 rationale for this is found in the irreversible nature
18 of the loss at risk, namely cultural or linguistic
19 identity. Once lost it cannot be recovered; nor can
20 the loss be compensated for.

21 On the basis of these criteria
22 then the burden on proving no prejudice must rest
23 squarely with the applicants. We submit that this burden
24 has not been discharged. Indeed, I think Foothills
25 has conceded as much.

26 I would like now to turn to some
27 of the arguments that were offered the other day by Mr.
28 Genest. Concerning Mr. Ruttan's evidence about the
29 prospects for an economy based on renewable resources,
30 Mr. Genest had this to say:

1 "The evidence is quite clear that this type of
2 econmy cannot provide enough jobs to reduce
3 significantly the existing unemployment rate
4 and absorb the jobs lost because of a reduction
5 in oil and gas activity".

6 Sir, I think this proposition
7 is essential to the Arctic Gas case. I think it's also
8 a proposition that runs contrary to the evidence. The
9 only evidence on the record suggests that an economy
10 based on the renewable resources is feasible. I refer
11 to Mr. Ruttan's evidence.

12 Mr. Genest also commented on
13 evidence that was offered by Mr. Watkins concerning the
14 need for capitalization money where it was suggested
15 that it could be, that the non-renewable sector would
16 be a source for this kind of funding and Mr. Genest
17 said "if the postponement of a pipeline or the indefinite
18 delay or a pipeline or no pipeline at all is the
19 scenario that will occur there will not be that
20 non-renewable sector, at least not for some years."

21 Well, I wonder if the author
22 of that statement has read the transcript. There was an
23 active and very lucrative non-renewable sector in the
24 N. W. T. long before Arctic Gas came into existence.
25 It now exists quite independently of the proposed
26 pipeline. It is the mining and petroluem industries
27 which are major contributors to the extraordinary gross
28 domestic product of the Northwest Territories.

29 It is required, therefore, it is
30 not royalties from a pipeline, but simply fair com-

1 pensation for the fortunes that have already been ripped
2 out of Dene land. Mr. Genest also contended that we
3 should assess the cost of not building the pipeline.
4 He said that without a pipeline, there may not be a
5 settlement of native claims because there will be no
6 incentive for the government to come to a settlement.

7 Yet, they also argue that a
8 pipeline can be built before a settlement is reached.
9 Well, surely the government's incentive to settle will
10 be exactly the same in both situations. Once it is
11 built the incentive will be gone. If it's not built,
12 the incentive will not be there.

13 The only difference will be that
14 in the case where a pipeline is built native peoples
15 will have to fight the consequences of a pipeline at the
16 same time as they are trying to pursue a settlement.

17 In any case, even without a
18 pipeline, the same things that motivated the government
19 to negotiate Treaties 8 and 11 will still be there.
20 The gas will still be there, the minerals will still
21 be there and the demands of the multi-nationalists
22 show no signs of abating. If the risk of not building
23 a pipeline will be as Arctic Gas claims then the Dene
24 are willing to take the chance.

25 It was also suggested by Arctic
26 Gas that the Dene deny the sovereignty of Parliament.
27 Apart from being a serious misrepresentation of the
28 Dene position, I think this is essentially a bogus issue.
29 The Dene are not seeking to replace Parliament as the
30 final arbiter of the national interests. They are

1 only seeking the power to insist that the Government
2 of Canada take the legitimate interests of the Dene
3 into account when the national interest is being
4 determined.
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1 That's the function that's
2 served by provincial jurisdiction. The experience
3 of this country demonstrates the need for such
4 minority protections, such special protections,
5 because the danger is that the Government of Canada
6 will equate the majority interest or even the regional
7 interest of the most powerful region with the national
8 interest and there is no necessary equation of the
9 two. That is why we have institutions and jurisdictions
10 which give minorities the clout to insist on the
11 recognition of their interests.

12 At the present time no such
13 institutions or jurisdictions exist through which to
14 accomplish this aim for the Dene.

15 Of course it can always be
16 said that even with these protections it remains
17 possible for Parliament to decide that in the national
18 interest cultural minorities must be sacrificed.
19 Well, apart from the fact that it's difficult for me
20 at least to conceive of any situation in which the
21 national interest would be served by a derogation
22 under principles under which this country was founded,
23 I think we also ought to bear in mind that international
24 law requires that all nations respect and give effect
25 to the right of dependent minorities to retain their
26 autonomy and cultural integrity. All the Dene are
27 asking the Government of Canada is that it obey the
28 law. I don't think that's asking for anything
29 unreasonable.

30 I would like to turn to an

1 aspect of the evidence that has been produced by
2 both of the applicants and it's our submission that
3 the assumptions upon which this evidence is based
4 are so unfounded as to render their evaluation of the
5 socio-economic impact of the proposed pipeline virtually
6 useless.

7 The major flaw in their
8 socio-economic evidence is the failure to acknowledge
9 the existence of colonialism in the Northwest Terri-
10 tories and the consequent assumption (although un-
11 articulated) that the colonial relationships now in
12 existence will continue indefinitely.

13 I think upon examination
14 we see that this failing is based on even a more
15 fundamental error, and that is the refusal to recognize
16 that the Dene are a distinct people. The implicit
17 denial of this fact permeates all of the socio-economic
18 evidence of both applicants.

19 By characterizing the
20 colonial impositions of the recent past as undifferentiated
21 change, they fail to deal with the involuntary nature
22 of this change; indeed, it is assumed by the applicants
23 to be voluntary. Yet the question of voluntariness
24 is crucial to understanding the recent history of the
25 Dene and their demand for an end to change over which
26 they have no control.

27 To take just one example of
28 the absurdities that this can lead to, we need only
29 examine Arctic Gas' assertion that what native people
30 in the Mackenzie District want is wage employment;

1 they say more and more young people prefer it. They say
2 there appears to be nothing on the horizon which can
3 provide wage employment in sufficient quantity to
4 satisfy the demand except the pipeline.

5 Well, I say this. Evidence
6 of preferences among the Dene for wage employment
7 must rely on very skimpy data. Nevertheless, the
8 question of preferences cannot be assessed without
9 accounting for intense colonial conditioning over
10 the last 20 years, especially among the present
11 generation of young adults and juveniles, and this
12 accounting has not been done. If the Dene had had
13 control over their economy and education systems during
14 this period would there be today an overwhelming
15 preference for wage employment, especially on a
16 pipeline? If we look at that area of the economy
17 that the Dene do control, bush collection, wage
18 employment functions primarily as a supplementary source
19 of cash which is used to facilitate bush collection.

20 Furthermore, it is likely,
21 given Dene control of their economy, that preferences
22 would be for gainful activity that incorporates
23 dominant values of Dene culture. It is clear that these
24 values are not enhanced or even reflected by wage
25 employment in the petroleum industry as it operates at
26 present. The applicants have completely failed to
27 deal with these questions.

28 By failing to acknowledge
29 the existence of colonialism the applicants have not
30 been able to assess accurately the degree to which

1 their project would contribute to the process of
2 colonialism. This is the fundamental error upon which
3 their argument on expropriation proceeds. By failing
4 to account for colonialism, and failing to recognize
5 the Dene as a distinct people, they see the pipeline's
6 impact solely as if it were a street-widening in a
7 southern city. The impact of the pipeline is on a way
8 of life, a culture for which there can never be any
9 adequate monetary compensation.

10 Indeed, the quality of
11 argument presented by the applicants and producers on
12 the central issue of the rights of the Dene is so
13 inadequate as not to merit much more comment on our
14 part. But there is one further argument which needs
15 to be dealt with.

16 It is the submission on behalf
17 of Gulf Oil Canada, Imperial Oil and Shell Canada
18 Resources, which was distributed to the participants
19 earlier. We believe it best exemplifies the
20 incredible hypocrisy of the petroleum industry. In
21 the submission referred to, the suggestion that the
22 Dene might seek to hold the rest of the country to
23 ransom wins the prize for sheer audacity.

24 Coming from the people who
25 reassured the Canadian public only a short time ago of
26 continued cheap energy, only to turn around and reap
27 the benefits of their dishonesty at our expense, coming
28 from the people who brought Britain to its knees, who
29 took Angola for a ride, and who earned a ransom to
30 beat all ransoms from the Arab oil embargo, coming

1 from interests whose allegiance to the people of this
2 country is measured by nothing more than the ease
3 with which they can rape its resources, this slur upon
4 the Dene is brave to say the least.

5 The charge that the Dene seek
6 to ransom the country is also a reflection of the sick
7 world from which it emanated. If, after all the
8 evidence presented directly to this Inquiry by the Dene
9 themselves, the concern expressed by a people for their
10 own survival, if after this, the producers can still
11 suggest that the Dene are opposing the pipeline solely
12 for the purpose of lining their own pockets, is this
13 not the final proof of their inability to see in
14 others any motive beyond that which governs their own
15 actions? Blind and complete allegiance to only one
16 god, Mammon.

17 To conclude, the Indian
18 Brotherhood of the Northwest Territories therefore
19 requests this Inquiry to make the following recommenda-
20 tions to the Government of Canada:

21 . That no permit for a right-of-way to build a
22 pipeline down the Mackenzie Valley be granted prior
23 to the signing and implementation of an agreement
24 between the Dene and the Government of Canada which
25 will ensure the self-determination and survival of
26 the Dene as a people. That concludes my submissions,
27 Mr. Commissioner. Thank you.

28 THE COMMISSIONER: Thank you,
29 Mr. Bell.

30 MR. SCOTT: Mr. Commissioner,

1 could we adjourn until 9:30 tomorrow morning, please?

2 THE COMMISSIONER: All right,

3 we stand adjourned until 9:30 A.M.

4 (PROCEEDINGS ADJOURNED TO NOVEMBER 19, 1976)

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